The American
Labor Legislation Review

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"LEGISLATION and democratic administration are convincing proof that democracy means to create the conditions which will make possible for all citizens the living of the good life. That essential duty the community has accepted."—CHARLES W. PIPKIN, *in "The Idea of Social Justice."*

Legislative Progress in 1927

LEGISLATURES in several of the states are still in session as this REVIEW goes to press, but already there is an impressive list of important labor laws that have won final enactment in 1927. Notable advances have been made this year in several different sectors of the line of protective labor legislation. The outstanding enactments are discussed elsewhere in these pages. They include—

Enactment by Congress of the federal accident compensation law for harbor workers.

Enactment of old age pension laws in Colorado and Maryland, and in the Dominion of Canada.

Enactment in Indiana and Ohio of rock dusting laws to prevent mine disasters due to coal dust explosions.

Enactment in New York, after fourteen years of struggle, of a law reducing the weekly working hours of women and minors.

Enactment in Maine and Kansas of legislation accepting the provisions of the federal act for protection of maternity and infancy, leaving only Massachusetts, Connecticut and Illinois in the dark area.

Enactment in many states of legislation liberalizing the provisions of existing workmen's compensation laws, including increases in the weekly maximum payments to bring them more nearly abreast of the post-war increase in wage and living costs.

Enactment in Wisconsin and Maryland of laws providing accident compensation for convicts injured while at work in prison.

Enactment in Maryland of a law providing double compensation for children injured while illegally employed.

Progress has also been made in the present year in the preparatory work that is essential to the final adoption of well-considered labor legislation. In many states, notably in the case of old age pension and workmen's compensation bills, favorable action was won in at least one house of the legislature which presages early enactment. The campaign for rock dusting laws, too, has developed encouraging momentum.

Florida, the most conspicuous "black spot" still remaining on the workmen's compensation map, was aroused this year sufficiently to consider an accident compensa-

tion bill. Two measures were introduced in the legislature. The first one, which was under discussion for the greater part of the session, met with so many objections that there was little chance of its adoption. When the end of the session drew near, a substitute bill was introduced, as drafted by the American Association for Labor Legislation, and many of the serious objections raised against the earlier bill were overcome. The measure was reported favorably by the committee, but was defeated in the House, 47 to 34. Forward-looking citizens of Florida have the chagrin of finding their state, in the year 1927, still unwilling to adopt the modern plan of protection against occupational injuries which is in effect in all of the states except five—Arkansas, Mississippi, North Carolina, South Carolina and Florida—all in the South. Efforts will be continued with a view to removing this "black spot" at the next session. In North Carolina a workmen's compensation bill was considered this year, and early in 1928 the legislatures of South Carolina and Mississippi will face this issue.

The new federal accident compensation law for harbor workers, drafted by this Association in cooperation with the Longshoremen's Association, goes into effect July 1, as provided, despite temporarily inadequate funds for this and many other government functions as a result of the filibuster in the Senate which held up appropriations. The commission, with praiseworthy zeal, and in a cooperative spirit, is getting the administrative machinery in readiness to function.

Special mention should be made here of the discussion in this REVIEW of international standards of labor protection. This discussion by leading authorities, as featured at the Association's twentieth annual meeting, presents outstanding post-war developments under the labor provisions of the Peace Treaty, with particular reference to the position of the United States.

Recent progress of labor legislation in this country, although in many respects still lagging far behind knowledge of what ought to be done, bears witness to what may be accomplished, even in a post-war period of reaction, by concerted efforts and persistence.

JOHN B. ANDREWS, *Secretary*,
American Association for Labor Legislation.

Legislative Notes

THE **Twenty-first Annual Meeting of the American Association for Labor Legislation** will be held at Washington, December 27-29, 1927. Two joint sessions have already been arranged with the American Economic Association.

◇

ERRONEOUS statements have appeared recently in several newspapers that the United States Employees' Compensation Commission "is powerless" to administer the **federal accident compensation law for harbor workers** because Congress failed to make an appropriation for its administration. This new law, prepared by the American Association for Labor Legislation with the cooperation of the International Longshoremen's Association, was enacted in the closing minutes of the last Congress despite the filibuster, and goes into effect July 1. As a result of the filibuster, however, necessary appropriation bills failed of passage, including funds to carry out the harbor workers' compensation act. President Chlopek of the longshoremen's union has recently called public attention to the fact that President Coolidge and General Lord of the budget commission have agreed to the suggestion of the federal compensation commission that it be permitted to use, in putting the harbor workers' compensation law into effect as far as possible, funds appropriated earlier for the commission's work. The commission is therefore making preparations, including the establishment of deputy offices in five cities, for administering the law as soon as it becomes effective.

◇

MAINE and Kansas are the two most recent additions to the roll of states that have accepted the Sheppard-Towner act providing for federal-state cooperation in the **protection of maternity and infancy.** All of the forty-eight states except Massachusetts, Connecticut and Illinois have accepted the federal act.

A STATE legislative committee in Tennessee which has investigated the **coal mine explosion** at Rockwood, last October, in which 27 miners were killed, reports that mine officials failed to take the most ordinary precautions to protect the miners. Coal dust was permitted to accumulate in great quantities and, in case of imminent danger from fire or explosion, water has to be carried 500 feet in buckets! The gas boss, who lost his life in the explosion, is declared to have been incompetent and irresponsible, although "passed" by the state mine examiners, and the mine operators, according to the committee, were using out-of-date methods and ignoring mine safety laws. These official findings empha-

size the need not only of effective enforcement of mine safety laws but also of the adoption of legislation requiring the rock dusting of mines to prevent coal dust explosions.

◇

FOLLOWING the death recently of three compressed-air workers who were stricken with the dreaded **occupational disease,** "the bends," while working on the construction of tunnels for the Milwaukee sewage disposal system, a bill was introduced in the Wisconsin legislature for the protection of caisson workers. The American Association for Labor Legislation pointed out, in a statement published in Wisconsin newspapers, that three states—New York, New Jersey and Pennsylvania—already have enacted legislation based on the Association's standard bill, to control the disease, and that the industrial hazard of "the bends" is present wherever in the construction of tunnels, bridges and skyscrapers, the workers have to labor in compressed air.

◇

CHARLES J. WATERS, of Germantown, has been appointed by Governor Fisher of Pennsylvania to succeed Dr. Richard H. Lansburgh, who was Governor Pinchot's selection as **Secretary of Department of Labor and Industry.** Dr. Lansburgh, who made an excellent record, becomes Professor of Industry, University of Pennsylvania.

◇

A STRIKING sidelight on the **dangers of coal mining** is found in the report of a legislative committee which recently made an investigation of the West Virginia state fund for workmen's accident insurance. It is found that 80 per cent of the widows who have been awarded compensation lost their husbands as a result of coal mine accidents.

◇

AT a committee hearing in Michigan on the measure which increases the weekly maximum under the **workmen's compensation** law from $14 to $18, Governor Green and Mayor Smith of Detroit appeared on behalf of the bill. "No business," said Mayor Smith, "has the right to ask justice until it has given justice to those who make its existence possible."

◇

A BILL for **unemployment insurance** in the Wisconsin legislature was recently reported favorably by the committee on labor but failed of passage in the Assembly.

◇

IN a recent bulletin of the New York Association for Improving the Condition of the Poor, under the heading "After Three Score Years and Ten," appears a number of little stories from real life revealing poignantly the desire—and the heroic efforts—of aged dependents to get along somehow in their own rooms or homes, however bare, rather than

to be put away in a poorhouse or other institution. So strong is this feeling that the board of managers of the A. I. C. P. has formally adopted the principle of caring for aged people in their own homes. When all the states have adopted **old age pension legislation,** worthy old folks who have outlived their usefulness to industry will no longer be forced to suffer the neglect and humiliation of poorhouses but will be cared for in their own homes, as dependent children are now cared for under mothers' pension laws.

◇

In Massachusetts the senate, without a dissenting voice, turned down a proposal to weaken the **forty-eight-hour law for women.** The Arkwright Club, an organization of employers, sought to modify the law so as to allow women to work a maximum of 10 hours a day or 54 hours a week in rush seasons.

◇

California has enacted a law authorizing the state compensation insurance fund to carry insurance under the **federal longshoremen's and harbor workers' accident compensation law,** enacted by Congress on March 4. The bill also authorizes the state industrial accident commission to assist in the enforcement of the federal act. Such supplementary legislation is needed in some states, but not in all.

◇

"There is," said Harry A. Mackey, city treasurer of Philadelphia, recently in a radio address, "no sound argument against **old age pensions** from either the humanitarian or economic standpoint."

◇

A law has been enacted in Pennsylvania providing an **eight-hour day** for policemen in third-class cities.

◇

Defeat by the Missouri Senate of the proposed **child labor** law is characterized by Wiley H. Swift, acting secretary of the National Child Labor Committee as "a double shame." "That the Senate in Missouri should not be willing to accord to its children the protection from harmful employment guaranteed by most of the states of the Union is, of course, to be regretted," he said. "But that the law-making body should treat such a proposal with levity and kill by 'ridicule' the bill proposed by the Missouri Women's Legislative Committee must be humiliating to the citizens of the state."

◇

Final adoption by Tennessee of the standard bill for **rock dusting mines to prevent coal dust explosions** was prevented at the 1927 session of the legislature when the bill was subjected to unusual **opposition tactics.** The bill had passed the legislature and was in the governor's hands when certain coal operators went into action with a last-minute

campaign of misrepresentation, with the result that the lower house recalled the bill from the governor, and in the closing days of the session tabled it, with less than a quorum present. The State Federation of Labor questions the constitutional right of the legislature to take such action. It contemplates bringing suit under the declaratory judgment act of the state to test the validity of the move.

◇

OPERATION of the new workmen's compensation act of Quebec has been postponed to April 1, 1928. The reason for this action is the **"excessive rates charged by commercial insurance companies."** The government will investigate compensation insurance with a view to adoption of a plan that will protect injured workers and their dependents and at the same time will not overload industry.

◇

AT the fourteenth annual convention of the **Association of Governmental Labor Officials of the United States and Canada,** held at Paterson, N. J., May 31 to June 3, problems of immediate interest were discussed, including reports of new legislation and progress from the states; legislation to prevent occupational diseases, and mine safety.

◇

ARIZONA has enacted a **forty-eight-hour law for women.** The new act restricts the daily hours of women workers to eight and limits the work week to six days. The old law permitted the seven-day and 56-hour week. Women in manufacturing establishments, places of amusement, and railroad restaurants or eating houses on railroad property, none of whom was covered by the old law, are included in the new one.

◇

A MEETING sponsored by the American Mining Congress, at Cincinnati, May 21, was to discuss **basic safety codes for coal mining.** Coal operators resisted any expression favorable to the preparation of coal mine safety standards. But, says *Coal Age*, "To adjourn without some action showing an interest in the cause of safety was thought undesirable." A perfunctory statement was hastily prepared, expressing interest in efforts to promote mine safety, and the conference adjourned.

◇

A NEW **workmen's compensation** bill to extend and improve the existing act in New Hampshire was introduced in the legislature following a four days' conference between representatives of manufacturers and of organized labor. Acceptance of the bill as agreed upon by the joint committee was advised by President William Green of the American Federation of Labor and Secretary John B. Andrews of the American Association for Labor Legislation. Opposition came from lawyers and, yielding to this opposition, the legislature killed the bill.

JOHN P. FREY, president of the Ohio State Federation of Labor, editor of the *Molders' Journal,* and a member of the general administrative council of the American Association for Labor Legislation, was appointed as **adviser on labor questions** to the delegation from the United States to the International Economic Conference which opened at Geneva May 4 under the auspices of the League of Nations.

◇

NEW YORK employers who carried their workmen's accident compensation insurance with the **state fund** have recently received announcement of the customary dividend of 15 per cent—amounting to more than $740,000 on policies expiring during 1926. This return is in addition to the saving effected by reason of the fact that the state fund rates are 15 per cent lower than those charged by private companies.

◇

THE New York **"Industrial Survey Commission,"** created by the legislature in 1926 to investigate "conditions under which the manufacturing and mercantile business of the state is carried on," has been re-created and continued by the legislature of 1927. An appropriation of $25,000 is made for the commission's expenses, and it is ordered to make a report by February 15, 1928.

◇

DISCUSSING the **chronic chaos in the bituminous coal industry** and the failure at Washington to act on fact-finding reports, the Boston *Globe* says: "For all of a decade the United States Government has been vividly aware of the confusion and economic chaos reigning in the coal industry. There have been inquiries and investigations. Reports have piled up on reports. And nothing has been done. Recommendations have been left to gather dust till they were out-of-date. Suggestions have fallen against a blank wall of do-nothingism. So it is not surprising to hear from Washington that no action is contemplated regarding this latest tie-up 'until the situation becomes acute.'"

◇

LEGISLATION has been introduced in the aldermanic branch of the Municipal Assembly of New York City by Alderman J. F. Kiernan to provide an **eight-hour day** and **one day of rest in seven** for 22,000 uniformed firemen and policemen.

DAVID F. HOUSTON, former Secretary of the Treasury, in an article in *The Protectionist,* discusses the results of a study for the preparatory committee of the delegation from the United States to the International Economic Conference at Geneva. "Substantial progress," he writes, "has been achieved in the United States under each of these three headings"—**stabilization of employment,** standardization, and simplification of industry or of individual enterprises—which together are referred to in Europe as "rationalization." He adds: "This is not a development solely of the post-war period, though it must be confessed that, before the war,

we were, in the main, merely studying the problems involved and theorizing about them. In so far indeed as rationalization, especially in its stabilization aspects, concerned labor policies, the study and the theorizing were done not by business men, but by professional students of labor problems in our universities or in organizations such as the American Association for Labor Legislation."

◇

At the University of Wisconsin the **Summer School for Workers in Industry,** which provides six weeks of study for qualified girls employed in industry, will be held June 25 to August 5. Barnard and Bryn Mawr also hold summer sessions for working girls.

◇

Efforts to liberalize the **workmen's compensation law** in Illinois are meeting with encouragement. Says an editorial in the Chicago *Tribune* recently: "A bill amending the workmen's compensation act has passed the house at Springfield by a vote of 109 to 3. The bill has been indorsed by organized labor and organized employers. Under the bill the compensation paid to workmen for injuries of various sorts is to be increased somewhat. This is a step in the right direction. The amounts now paid to workmen injured in line of duty are insufficient. The amounts should be large enough to enable a workman who has been maimed to pay his hospital expenses and support himself in decency until he is able to return to his job or find another which he may fill despite his injury."

◇

Legislation has recently been adopted in Wisconsin providing **accident compensation for prisoners** who are injured while at work in prisons. Compensation is on the same basis as if they were employees under the workmen's compensation act, subject, however, to the limitation that the maximum award shall not exceed $1,000 and that payments shall not be made until the prisoner is released. Maryland also has just enacted a similar law. This legislation is based on the standard bill prepared by the American Association for Labor Legislation.

◇

Hour laws do not handicap women in industry but instead shorten their hours, shorten men's hours, and standardize hours throughout entire communities, according to a report made by Mary N. Winslow of the Women's Bureau of the United States Department of Labor, at the National Conference of Social Work in Des Moines, Iowa. In the session on the **effect of labor laws on women workers** an account was given of an investigation which has just been concluded by the Women's Bureau. This investigation disclosed the fact that the regulation of women's hours of work opens up more jobs for women rather than limiting the number. It was found that in only two out of nearly 1,500 industrial establishments were men substituted for women because of a legal limitation of women's hours.

Florida Still Slumbers

COMMENTING upon Florida's unenviable position as a "black spot" on the workmen's compensation map, the American Association for Labor Legislation some time ago pointed out that "visitors to this state have commented with surprise upon the lack of a modern state program for dealing with occupational accidents." When a compensation bill was introduced in the Florida legislature recently, California took notice of this stirring toward action on the part of her traditional rival for the affections of those seeking a place in the sun. Witness this editorial from the San Francisco *News:*

"NOT FULLY AWAKE YET

"Struggling upward toward the light at last, Florida has pains. Such always result during progress from a benighted belief that six months of more or less climate is high justification for a place on the map, but they may be neutralized at last if the progressive movement is real and comprehensive. That's Florida's test. Simply, it means that she can take her place among the states if she acts like other states.

"Shaking herself loose from her age-old ennui, our southeasternmost commonwealth is making gestures toward industry. She is bent on building and road construction, excavation work, and lumbering, for instance, and all are hazardous occupations. However, she is giving the men who do these works no protection against accidents since she is one outstanding community of the meager five in the country that have no accident compensation laws.

"A state may have a climate and other inviting things, but it doesn't measure up if its industrial life is a hazard. In fact, industry suffers by such a condition and industrial workers hold aloof from that section or community that gambles with tragedy. Coming fully awake on this important matter is the big thing Florida has yet to do."

But Florida still slumbers. Shortly before the legislative session ended, the compensation bill was defeated in the House by a vote of 47 to 34. Efforts to arouse the state will continue. Progressive citizens of Florida do not point with pride to the Rip Van Winkle attitude of the 1927 legislature toward a well considered, modern accident compensation bill.

Old Age Pension Legislation: Progress in 1927

SUBSTANTIAL progress has been made thus far in 1927 in the adoption of old age pension legislation in America.

Two additional states—Colorado and Maryland—have recently enacted old age pension laws, and a national old age pension act has been adopted by the Dominion of Canada.

With this favorable action six states and one territory—Colorado, Maryland, Montana, Nevada, Wisconsin, Kentucky and Alaska—have already adopted non-contributory old age pensions to care for aged dependents in their own homes instead of in costly and inhuman poorhouses.

Canada's new law provides for acceptance also by the provinces. It goes into operation promptly in British Columbia since this province took action in anticipation of the dominion act.

In addition to these new enactments, widespread interest and encouraging advances have been made this year throughout the United States in the legislative campaign for non-contributory old age pensions.

Old age pension bills were introduced in two dozen state legislatures.

In one state—Wyoming—after being passed by both houses of the legislature the bill was vetoed by Governor Emerson. The Governor explains, however, that his veto was used only because of an unusual amendment inserted in the bill which it is believed would make it unconstitutional, and that he will support at the next legislative session a bill that is in its "proper form."

In six states—Idaho, Indiana, Nebraska, Texas, Utah and Washington—the bill succeeded in passing one house of the legislature. In Washington the vote was upon repassing the old age pension bill over the Governor's veto. Governor Hartley had vetoed the bill passed by the legislature in 1926 and this year the Senate repassed the bill but it failed to get the required number of votes to over-ride the veto in the House. In Texas the old age pension bill unanimously passed the Senate but, the Association for Labor Legislation is informed by Senator Halbrook, "owing to the crowded condition of the calendar and little time in which to com-

plete the work it was not reached in the House; I believe it would have become a law if that condition had not existed."

In Illinois and Missouri the bill was reported favorably by the House committee, and in Ohio and Oregon it was reported to the House without recommendation. In Illinois and Oregon the House voted on the measure adversely. But in Illinois a modified old age pension bill was thereupon introduced in the Senate, and following a hearing the Senate committee on May 18 unanimously voted to report the bill with a recommendation that it be passed. In Massachusetts, despite a favorable report by an official investigating commission, the bill failed at this session when "leave to withdraw" it was granted.

In four states—Arkansas, California, Iowa and New York—the legislature made provisions for an investigation of old age dependency with a view to old age pension legislation. In New York the investigation is a continuance of the study authorized a year ago. In California, the resolution providing for a thorough investigation by the State Department of Public Welfare, and recommendations as to the system of old age pensions best adapted to existing conditions in the state, opens with the declaration that it is the policy of California to provide a system of old age pensions. An old age pension bill had already been passed by both houses of the California legislature in 1925 but was vetoed by Governor Richardson who failed of reelection in the following campaign.

In Pennsylvania alone the way has definitely been blocked against early adoption of an old age pension law. The Pennsylvania act of 1923, it will be remembered, was held unconstitutional because of an unusual provision in the state constitution. The legislature of 1925 adopted a joint resolution to amend the constitution so as to permit this legislation. It was necessary for the legislature of 1927 to do likewise before the amendment could be submitted to the voters at the general election in 1928. The proposal passed in the Senate, but was killed in the House. The "Mellon-Fisher-Grundy political machine" massed its forces at Harrisburg and the House, "under the lash" defeated the proposed amendment. Commenting on this action, the Scranton *Times* says: "Not a few opponents of old age pensions will regret that the legislature took the means it did to kill the proposal which would have permitted the people of Pennsylvania to express themselves directly on the proposition." And the Reading *Times* protests: "The people were

deprived of a chance to decide whether this state should or should not make the experiment of old age pensions wholly because one political machine was stronger than another." It is pointed out that there is now no way of getting a constitutional amendment passed upon by the people of Pennsylvania earlier than 1933.

With the progress made in the present year, the present campaign for non-contributory old age pensions has gained impressive momentum. It was in 1922 that the American Association for Labor Legislation proposed a representative conference from which emerged what is known as the "standard bill" for old age pensions. This bill, which has served as the basis for existing legislation in America, has been supported by the Association for Labor Legislation, the Fraternal Order of Eagles and many civic and church bodies and labor organizations. The record of accomplishment for the past five years shows that the old age pension bill has been passed by eleven legislatures, vetoed in three states and declared unconstitutional in one, leaving a total of six states and one territory with old age pension laws in force, in addition to a national act supplemented by one provincial act in Canada. In three states—Indiana, Massachusetts and Virginia—official investigating commissions have already reported in favor of old age pension legislation and four more states now have official investigations under way.

The American Association for Labor Legislation, in continuing its active educational and legislative campaign and inviting the support of all citizens interested in this important field of social insurance, points out that the standard bill for old age pensions embodies the same principle as that underlying mothers' pension laws which have been enacted in forty-two states and two territories, and by Congress for the District of Columbia. Old age pension legislation is designed to keep families together where there are aged dependents instead of abandoning these worthy citizens, who have been worn out in the service of industry, to the callous neglect of de-humanized poorhouses. The progress that has already been made offers great encouragement to further efforts.

Canada's New Old Age Pension Law

THE national old age pensions act, passed in March, 1927, by the Canadian Parliament and given the Royal Assent on March 31, establishes a non-contributory plan of caring for aged dependents.

The measure provides for a maximum pension of $20 a month for British subjects who have attained the age of 70 years. Pensioners must have resided in Canada for the 20 years—and in the province in which application for pension is made for the five years—immediately preceding granting of the pension. The maximum pension of $240 yearly is subject to reduction by the amount of the income of the pensioner in excess of $125 a year, which means that the maximum income of the pensioner, including the pension, may not be more than $365 a year.

The Canadian act becomes effective only when its provisions are accepted by the various provinces. British Columbia is the first province to adopt the necessary enabling legislation. One-half of the pension is paid by the province; the other half by the Dominion.

Canada's new old age pension act is the result of a popular mandate. The same bill failed of passage in the Senate a year ago, but in the election campaign of September, 1926, this measure was an outstanding issue, and the Liberal victory was interpreted as an endorsement of the old age pensions bill by the people. The Senate yielded and the bill was finally passed.

Efforts are now being made to have all the provinces accept the national act, as British Columbia has already done. The provisions of the act—particularly with respect to age limit, amount of pension and residence qualifications—fall short of the "standard bill" which is the basis of existing legislation in America. Assurance, however, comes from President Tom Moore of the Trades and Labor Congress of Canada that improvements will be sought as soon as the act is accepted by a number of provinces.

President Moore, in an interview, says: "The provisions of the bill are not entirely satisfactory to labor but it is at least a definite acceptance by the government of Canada of joint responsibility with the provinces in the matter of aiding the aged and needy. It will bring relief into thousands of homes * * *. The big thing is that the principle has been adopted * * *. We look upon it as one of the most important steps in the past decade."

The Federal Accident Compensation Law for Harbor Workers

(Editorial in *The Nation*)

"THREE ghastly harbor disasters occurred within two months last winter, in which sixty-seven men lost their lives and more than a hundred were seriously injured. * * *

"It is not expected that the families of any of these victims will ever be able to collect a cent in recompense, because existing law limits liability to the value of the ship where the accident happened, and in all three cases the vessel was a total loss. No help can be had from state workmen's compensation acts, for in 1917 the federal supreme court ruled that the moment a man walks up a ship's gangplank he becomes a maritime worker and steps out from the protection of state legislation.

"Happily after next July this cruel situation will exist no longer. The tragedy of these victims and their dependents was not wholly in vain. It was the spur which made it possible for the American Association for Labor Legislation to push through Congress, in the very last hour of the last session—when a filibuster was holding up nearly all other legislation—a federal longshoremen's accident-compensation bill remedying the injustices and inadequacies of the old maritime law. The act will bring protection to a third of a million of workers in twenty-two different crafts. * * *

"Incidentally, the law will introduce workers' accident compensation in a limited way to the five states which afford no such protection: North and South Carolina, Arkansas, Mississippi and Florida."

(Editorial in *The Survey*)

"THE federal longshoremen's and harbor workers' bill has been enacted into law. It was called up for consideration and passed in the Senate in an interval of the hectic filibuster of the last morning of the 69th Congress. This is the first federal law to apply the compensation principle to a large group of workers in private employment. Because of its national sweep, it introduces the principle of compensation into those southern maritime states which are among the few remaining states without compensation laws of their own. * * *

"The history of this statute began in 1917 when in the Jensen case the United States supreme court held that state compensation laws were inapplicable to harbor workers who at the time of their accidents happened to be aboard vessels riding in navigable waters. Its enactment is a tribute to the sustained and effective co-operation between a trade union and a social agency. On Capitol Hill it is a matter of common acknowledgment that this law would not have been passed except for the patient and intelligent teamwork between Anthony Chlopek, president of the Longshoremen's union, and John B. Andrews, secretary of the American Association for Labor Legislation."

Progress in Rock Dusting Legislation

TWO additional states—Indiana and Ohio—have in 1927 enacted legislation providing for rock dusting bituminous mines to prevent disasters due to coal dust explosions. In Pennsylvania the rock dusting law of 1925 was strengthened. In Wyoming new rock dusting provisions were enacted. In Tennessee the legislature passed the standard bill for rock dusting, but the bill was recalled from the Governor by the lower house and tabled.

With this recent action, six states—Indiana, Ohio, Pennsylvania, Utah, West Virginia and Wyoming—have already adopted this modern measure of coal mine safety.

Indiana's enactment of the standard rock dusting law prepared by the American Association for Labor Legislation as an aid to state legislation followed closely a coal mine explosion in this state which killed 37 miners. A similar explosion in Indiana in the previous year took 51 lives. In the legislative campaign which resulted in the adoption of the rock dusting law, the Association for Labor Legislation pointed out that the community cost of these two recent Indiana disasters—in property loss, charitable relief, and workmen's accident compensation—totaled more than half a million dollars. The cost of the rock dust safeguard, as shown by both British and American experience, is less than a cent a ton of coal mined. By adopting the provisions of the standard bill, Indiana has shown a commendable disposition to make her rock dusting legislation as effective as possible at the outset, unlike some states which have been content with half-way measures which will later have to be brought up to standard.

Ohio's new legislation provides for rock dusting mines that have become dry, with the air charged with coal dust, thus urgently requiring action to prevent coal dust explosions.

In Pennsylvania the rock dusting law adopted in 1925 has been strengthened. The original act merely permits rock dusting as a safeguard against coal dust explosions. The 1927 legislature enacted a law permitting a new system of mining, known as "the longwall or a modification of the longwall system." Under the new rock dusting law the use of rock dust is compulsory wherever the new system of mining is put into effect. This action illustrates anew how

progress may be made in desirable labor legislation by successive steps even though the original enactment is inadequate except by way of establishing a principle. When a modern principle of labor protection has once been written into the statutes, the way has been opened to making it increasingly effective in its practical application.

In Wyoming, where rock dusting legislation was adopted in 1925, the 1927 legislature enacted new provisions for rock dusting which, however, fall far short of bringing this safety measure up to desirable and effective standards.

In Tennessee the Association's standard rock dusting bill passed both houses of the legislature. While it was in the hands of Governor Peay, however, opposing coal operators got busy with the result that the bill was recalled from the governor by the lower house in the closing days of the session and tabled. Failure of Tennessee to enact this modern safety measure at this session is all the more conspicuous in view of the fact that a legislative committee which investigated the killing of 27 miners in a coal dust explosion in Tennessee last October recently reported that mine officials had failed to take even the most ordinary precautions to protect the miners. What measure of responsibility are members of the Tennessee legislature prepared to accept for future needless loss of human lives in coal mine explosions?

With rock dusting legislation already adopted in six states, and with 214 substantial coal companies in 17 states and Canada rock dusting their mines, the campaign begun by the Association for Labor Legislation five years ago to prevent needless deaths as a result of coal dust explosions has shown stimulating progress. Recognition of the effectiveness of rock dusting and of the urgent need for its universal adoption has swelled to impressive proportions. Legislators in the nineteen bituminous states that have not yet acted are faced by an increasing public demand that each year becomes more difficult to ignore.

Why Protection Is Vital

(Editorial in the *Milwaukee Journal*)

THE American Association for Labor Legislation calls attention to two mine disasters in recent weeks after which the headlines ran, not "Seven Hundred Dead in Disasters," but "Seven Hundred Saved." The reason for this different story? In both cases the mines had been rock dusted back where the men worked, so that the explosions were confined to the entries, which had not been made safe.

One would think that every mine owner would adopt a method that has been proved efficient in saving lives and property. One would think that every coal state would have a law requiring dusting. But there are still thousands of mines that are potentially as explosive as dynamite, and still 20 coal-producing states that do not require dusting. This shows that men will not all voluntarily protect their own property and those who work for them; that states, even, will neglect to require such protection unless pressure is brought to bear.

As another example of occupational hazard, recently there have been in Milwaukee cases of "the bends," an excruciatingly painful disease which follows when workmen come too suddenly out of caissons and tunnels, where they labor under increased air pressure. Some of these cases ended fatally. Yet, according to the Association for Labor Legislation, there is a protection and three states are now requiring it by law.

"More legislation," say some. But who will say that under modern, far-flung operating conditions, the worker is protected unless there is legislation? The old days of personal contact are gone. That was strikingly illustrated in a debate in the Wisconsin senate recently. A senator was opposing some protective labor legislation; he had built up his business himself, he had made a success of it, and he didn't want the state interfering. Another senator, who was for the legislation, arose to ask:

"How many employees did you have when you started your business?"

"There were myself, an assistant and an office boy."

"How many have you now?"

"Three hundred and eighty."

There was the whole story—the difference between the day when that employer could look after his assistant and the office boy and today when he would not even recognize on the street the faces of many who are on his payroll. That is why sensible protective legislation is necessary.

Employers Coming to Grips with Compensation Costs Under Commercial Insurance

By Frederick W. MacKenzie

RECENT activities of commercial insurance organizations in opposing progress of workmen's compensation legislation in the United States; in combatting state funds, and in fixing higher rates for workmen's compensation insurance, have aroused increased interest in rates and rate making.

Who fixes the rates employers must pay to insurance companies under compulsory workmen's compensation laws? By whom are the rate makers employed? Do employers have any effective public safeguard against rates that may be excessive?

Throughout the long educational campaign looking to the adoption by all states of exclusive state funds for workmen's accident insurance, these questions have doubtless never been raised more sharply in the minds of the employers affected than they are at the present time.

As reported in the December number of this Review,[1] the leading spokesman and lobbyist of the stock casualty insurance companies had, in an address before employers, launched an unjustifiable attack upon the progress of workmen's compensation legislation. In doing so, it was pointed out, he "reveals himself as desperately aware of the increasing realization on the part of employers that the insuring of compensation risks in stock casualty companies is steadily becoming excessively costly, both for the employer who pays the premium and the consumer who bears the ultimate cost."

Kansas employers recently came up against the problem of increased compensation insurance rates. The 1927 legislature enacted a new workmen's compensation law, effective July 1. The new rates announced by the national insurance rate makers showed an increase of 11.4 per cent. Whereupon the Associated Industries of Kansas made public protest, declaring that "instead of an

[1] "'Dangerous Tendencies' Propaganda Refuted by Facts," by Cornelius Cochrane. *American Labor Legislation Review*, Vol. XVI, No. 4, December, 1926, pp. 268-280.

increase, we expect and will insist on a substantial reduction." Commenting on the methods of the rate makers, the secretary of Associated Industries said: "If we were to measure the old law and the rates applicable to it as they are doing under the new law, there should be a 30 to 60 per cent decrease in the rate schedule."

In Minnesota, a year ago, the issue over rates became acute. Employers were stirred to action when new and higher rate schedules were announced. Increases had been made in the premiums averaging 14.7 in 1921, averaging 11.7 per cent in 1924, and averaging 3.6 per cent in June, 1926, the minimum premiums on small risks being also advanced in 1926 an average of 66⅔ per cent. These increases had been allowed by the state compensation insurance board. The Minnesota Employers' Association protested. In a statement to the governor it charged that the state board had granted the increases to the insurance companies without proper investigation. It suggested that the next legislature turn the function of regulating rates over to the Industrial Commission and require the commission to make full investigation of the facts before permitting any rate advance. Minnesota employers found themselves at the mercy not only of the insurance rate makers but also of a state agency charged with the duty of regulating rates but refusing to look for evidence on the ground that it was acting like a court, with the burden on employers to disprove the statements of the insurance rate makers if they could!

Employers in Virginia in 1926 forced the insurance companies to make a tremendous reduction in certain rates. The Virginia Coal Operators' Association gave its support to a movement to establish an exclusive state fund for workmen's accident insurance. Whereupon at a two-day conference between representatives of the Coal Operators' Association and insurance companies an agreement was reached which permitted a decrease of 7 cents per $100 of pay roll on Virginia mine risks. This was made possible, it was stated at the time, "by reason of the fact that the companies have conceded that 3 cents per $100 instead of 10 cents per $100 of pay roll is **entirely adequate** to cover the catastrophe hazard." Prospects of the adoption of an exclusive state fund here proved a most potent argument.

When the Missouri workmen's compensation law was ratified at

the election of November, 1926, the new rates filed by the insurance companies were found to be only 7 per cent on the average lower than the rates under the old employers' liability law, and in many cases they were enormously increased. The employers of the state had been assured during the campaign that if the compensation law were ratified their rates would be on the average from 20 to 25 per cent lower. These employers made heated and determined protest against the new rates. Associated Industries took steps to form an employers' mutual insurance company. Hearings were held before the state insurance commissioner, with the result that the commissioner found the new rates to be greatly in excess of what was fair, reasonable and adequate, and ordered a drastic reduction. The employers of Missouri were brought to a realization that if they had not joined together in a vigorous public protest, the national insurance rate makers and the insurance companies would have "gotten away" with their higher rates, thereby imposing a heavy and unnecessary burden of cost upon employers who were compelled by law to insure their compensation risks.

In Connecticut employers have undertaken to provide workmen's compensation insurance through an Industrial Mutual Insurance Company, similar to action already taken by employers in Pennsylvania and New Jersey. Under the leadership of Howell Cheney this employers' mutual has recently been incorporated by an act of the Connecticut legislature.

The commercial insurance companies have persistently attempted to prejudice employers against exclusive state funds. Through their national bureaus and through their wide-flung army of agents, they have spread the propaganda that exclusive state funds are "monopolistic" and "socialistic"; that they are an entering wedge to the socialization of all business. This specious propaganda was recently given a severe blow by a conservative official commission in Massachusetts which declared unanimously that the insurance companies "have no vested right in the business of insuring employers against the payment of compensation;" that there is nothing "impossible or wrong in the State taking over this function;" that "nothing is gained by calling such a step monopolistic * * * nor is anything gained by calling the suggestion socialistic;" and that "the State may properly supply its citizens with what it requires of them."

The recent developments cited here are a fair indication of the

increasing attention employers are being forced to give to the problem of insurance costs under workmen's compensation laws. Commercial insurance still counts upon chambers of commerce, state and national, as its chief allies for propaganda and lobbying purposes against the further adoption of the exclusive state fund principle. But it is significant that local employers' organizations are more and more coming to grips with the insurance rate makers. Employers throughout the country are getting some light upon the methods by which compensation insurance rates are fixed, upon the interests that are served by the rate makers, and upon the self-serving tactics that are being employed to prevent industry from securing the required insurance against industrial accidents most securely and most economically.

As further light is thrown upon commercial insurance rate making and tactics, employers will be in a position to see more clearly the great advantages to themselves, no less than to their injured workers, of the adoption everywhere of workmen's accident insurance that is not burdened with the needless expense of a profit-taking middleman operating through the commercial insurance companies.

West Virginia Exclusive State Fund Has "Saved Employers $15,000,000"

SINCE its creation less than thirteen years ago, the West Virginia exclusive state fund for workmen's accident insurance has "saved the employers of our state at least $15,000,000 as compared with the cost of stock company insurance." This "conservative estimate" is given in the report recently submitted by a joint committee of the West Virginia legislature which investigated the state fund.

The report shows that this exclusive state fund is administered "at the remarkably low cost of 4.27 per centum of premium receipts" as compared with administrative costs "of more than 40 per centum in the stock companies of our country engaged in writing workmen's compensation insurance."

The investigation was authorized by the legislature on the ground that "reports have been circulated and general statements made and published that the said workmen's compensation fund is not solvent." The committee concludes that "beyond question of any doubt, the fund is solvent at this time," and that "the fund has been ably administered by the present commissioner (Lee Ott) who has had charge of its administration from the beginning."

Headlines Tell Story of Lives Saved By Rock Dusting

Rock Dusting Saves Lives in Keystone Mine

Terrible Disaster Averted by the Adoption of Approved Protection

Science saved 400 lives in a Pennsylvania coal mine last week. A small explosion, whether of gas or dust is not known, occurred in a big mine at Cokeburg. Six men at the spot were killed and 5 others burned; but the explosion did not spread.

The mine had been protected by spraying non-explosive rock dust all through it. This formed a perfect insulation for the highly explosive coal dust. As a result, 400 men working in the mine were unhurt, when without this protection, all might have been killed.

The history of dust explosions in coal mines follows a pretty regular course. First, there is a small explosion, due to some local cause; and probably this local blast is of gas oftener than of coal dust.

Whatever the cause, it sets off the coal dust of the mine in a grand, spreading crash, that sometimes wrecks the entire working and kills men by the hundred.

Rock Dusting Saves Lives

The spraying of rock dust, when properly and thoroughly done, is a perfect protection against a grand smash. This is recognized everywhere. Sir William Garforth thought he noticed the effect of the accidental presence of rock dust in England a quarter of a century ago, and set up his first experimental tunnel for trying it out 20 years ago. England, France, and the Ruhr district, at least, in Germany, all protect their coal miners in this fashion now.

But in the United States, rock dusting is compulsory only in Utah and Indiana; and not more than 20 to 25 per cent of the coal comes from mines protected in this way.

Rock dusting is cheap, it is little bother—a single dusting, properly done, lasts from two or three weeks to five or six months, according to conditions in the mine.

LABOR
April 9, 1927

SIX MINERS KILLED, 400 ESCAPE INJURY

Precautions Against Explosion Minimize Blast in Pennsylvania Non-Union Mine.

RESCUERS SAVE FEW HURT

Miner Hammered Dynamite, Which Exploded and Ignited Coal Dust in Entry.

Special to The New York Times.

WASHINGTON, Pa., April 2.—Modern precautions against explosions saved the lives of 400 miners today when a blast, fatal to six, swept a section of the Cokeburg mine of the Ellsworth Collieries Company, twelve miles southeast of here. In addition to the six men killed five were burned and suffered from gas poisoning; but will recover.

The small number of fatalities was due to the fact that the entire mine had been insulated with rock dust, which reduces the explosive qualities of mine gases.

A shot of dynamite which exploded when a miner endeavored to break it in two by hammering it as it rested on a rock ignited coal dust and the resulting blast swept through two entries.

The dead miners are Frank Smith, Eastman White and Joseph Jordan, married, and Henry Kelley, William Gibson and Tony Sabotts, single. All are negroes but Sabotts.

Those killed were suffocated by black damp. The injured owe their lives to quick resuscitation work by the company's first aid crews.

The explosion occurred about two miles from the foot of the shaft almost immediately after the miners had assembled for work throughout the various entries. The Ellsworth Collieries Company, which owns the Cokeburg mine, is a subsidiary of the Bethlehem Mines Corporation and is operated by non-union labor. Activity going on as usual today regardless of the strike.

According to [illegible]

NEW YORK TIMES
April 3, 1927

The rock dust safeguard becomes big "news" as it again demonstrates its effectiveness in preventing mine disasters due to coal dust explosions.

Rock Dust Again Proves Effective as a Life Saver

Saves 700 Lives in Two Recent Mine Explosions!

SEVEN hundred miners owe their lives to the rock dust safeguard in the two most recent coal mine explosions in Pennsylvania!

These explosions occurred within a period of three days. In both cases the mine was rock dusted. In both cases the rock dust checked an initial explosion which otherwise would have resulted in a terrific coal dust explosion throughout the mine, wrecking property and carrying death to those in its path. Newspapers were thus able to report, not "710 Dead in Two Disasters" but "Ten Killed, 700 SAVED, in Two Explosions."

At Ehrenfeld, Pa., March 30, an explosion occurred in the main haulageway. Coal dust, thrown into the air and ignited, exploded with terrific violence, sending sheets of flame out of the entrance, crumpling the mine office near the mouth, "blowing out every window in town," and rocking the country for miles around. Four men in the explosion area were killed. But 300 miners at work farther back in the mine were saved. How? Investigation by the American Association for Labor Legislation shows that the sections of the mine where mining is under way are thoroughly rock dusted, but the haulageway where the explosion occurred is not. When the flame of an explosion reaches the rock dust safeguard, it is extinguished, saving the lives of the miners.

Near Washington, Pa., April 2, an accidental discharge of explosives set off a coal dust explosion. Six miners were killed. This mine is rock dusted and the explosion was therefore confined to the entry where it originated. Rock dust prevented the explosion from extending to other sections of the mine where 400 men were at work. The Associated Press report said: "The blast was confined to the one entry, for the mine had been rock dusted." And the New York *Times* dispatch said: "Modern precautions against explosions saved the lives of 400 miners to-day. * * * The small number of fatalities was due to the fact that the entire mine had been insulated with rock dust."

Thus rock dusting demonstrates anew its effectiveness in preventing mine disasters due to coal dust explosions.

This thrilling demonstration recalls the similarly spectacular saving of human lives in the New Orient mine at West Frankfort, Ill., in January, 1926.[1] Five men met death in a small explosion, but the mine was thoroughly rock dusted; the explosion was checked before it could make any headway, and the lives of 1,050 men then at work in the mine were saved!

These object-lessons in the efficacy of rock dusting in preventing coal mine disasters due to coal dust explosions are impressive and convincing evidence of the need of rock dusting legislation in all bituminous states. Continued progress has been made this year both in legislative enactments and in the rock dusting of mines by individual companies. What further enlightenment do legislators require before putting an end to the wholesale killing of miners in coal dust explosions?

[1] "Rock Dust Saves 1,050 Lives in a Single Accident," *American Labor Legislation Review,* Vol. XVI, No. 1, March, 1926, pp. 67-68.

Rock Dusting Is Made Compulsory In Germany

AFTER a quarter of a century of requiring water sprinkling as a safeguard against mine disasters due to coal dust explosions, Germany has now completely abandoned sprinkling and adopted the modern remedy of rock dusting.

The new act, which became effective in 1926, according to Raoul Towaide in an article in *Coal Age,* "thus recognizes the superiority of rock dusting over watering as a means of explosion prevention."

This change in regulation is the result of long study and careful tests by the German mining authorities and coal operators. Pointing out the sweeping nature of this compulsory act, Mr. Towaide says: "It will be seen from the foregoing that the German mining authorities fully recognize the dangers inherent to coal dust in the mines, and that careful provision has been made to forestall them. **If the provisions herein prescribed are carried out there should be an end to great mine disasters in that country attributable to the explosive properties of coal dust."**

A Mine Tragedy that Calls for the Fullest Inquiry!

ONE month following the two coal mine explosions in Pennsylvania in which the lives of 700 miners were saved by rock dust, newspapers carried the report of a shocking mine disaster at Everettsville, W. Va., in which nearly a hundred miners were killed.

This West Virginia mine explosion which took the lives of 97 men occurred on April 30. It was not until May 24 that rescue workers were able to finish the grim and feverish task of reaching and bringing to the surface the bodies of all of the victims. When the last three bodies were discovered in the far recesses of the mine farewell messages to wives and mothers were found scribbled on a dinner pail: "At peace with God" and "Try and stay in the U. S. A. Love to the kids."

As this REVIEW goes to press the coroner's inquest has not yet been held. Pending this, official information is not available. The American Association for Labor Legislation on May 20 wrote to the New England Fuel and Transportation Company, which operates the mine, asking for the facts concerning the explosion. On May 28 the general superintendent of the company's mines replied that "It will be impossible for me to answer your letter at the present time on account of the other work which is now going on but you may expect to hear from me at a later date."

What has already transpired in connection with the Everettsville explosion, however, warrants public demand for a searching investigation.

In the Associated Press report of the explosion, as published in the New York *Times,* May 1, the unqualified statement is made that **"the tunnels and working rooms were thoroughly rock dusted to prevent a spread of an explosion."** The further statement is made that "the fact that the blast did spread caused officials to believe it was a gas and not a coal dust explosion."

Who gave this statement to the Associated Press? What "officials" are here referred to—state mining officials or coal company officials?

Two weeks later an article by George L. Knapp appeared in *Labor,* published at Washington, in which this statement is

made: **"It seems pretty well established that only one of the six entrances of the mine ever had been rock dusted; and that the last spraying of rock dust at that entrance occurred over a year ago.** To call a mine 'protected' when treated in that fashion is like saying that a room is ventilated because the door was open once last summer."

If the *Labor* article is true, what is to be said of the Associated Press story written on the day of the explosion?

Rock dusting is the real preventive of mine disasters due to coal dust explosions. Its effectiveness has been demonstrated over and over again in British and American mines. Two of the most recent and spectacular instances of checking explosions and saving lives through use of the rock dust safeguard are reported on page 129 of this REVIEW. The New England Fuel and Transportation Company has been listed among the American coal companies that have adopted the rock dust safety measure. If the Associated Press dispatch were true, it would appear that the company had done everything possible in the way of prevention but that for once—amazingly—rock dusting had failed to work.

What are the facts? No inquiry will be adequate until it makes known to the public exactly what happened.

Did 97 men lose their lives in a disaster that could have been prevented?

Was the mine really "thoroughly rock dusted" or had there been only a gesture at rock dusting—"only one of six entries"?

These questions are being raised wherever mine safety measures are being discussed—by national and state mining officials, coal mine executives and engineers, and other safety experts. It is imperative that they be officially—and fully—answered, in the name of the coal mine safety movement throughout the country.

When the facts are brought out they will be reported, with comment, in a later number of this REVIEW.

"Enormously Beneficial"

COMMENTING on the saving of 700 lives by rock dust in two recent coal mine explosions in Pennsylvania, and urging legislation in all bituminous states to require the rock dusting of mines to prevent disasters due to coal dust explosions, an editorial in the Newark N. J. *Star-Eagle* says:

"In some states the system is required by law, but there are twenty where it is not compulsory. The American Association for Labor Legislation, whose membership is composed of leaders of social thought, is seeking enactment of laws to make use of the process mandatory. On the face of the record, it is impossible to imagine any good reason to oppose it. The system is compulsory in Great Britain and its effectiveness in preserving life has been clearly proved in this country.

"No legislator in conscience can oppose a law whose benefits, effectuated at a negligible cost, have been established so definitely. The direct expense in this country amounts to less than a cent a ton of product. This is negligible when weighed against the loss of even a single life, but it is also economic insurance to the mine owner, for a single explosion may entail many thousand dollars of expenditure in repairs. So enormously beneficial will the proposed statutes be that the Association's movement should not be allowed to fail."

Seven More Mine Explosions!

PROGRAM OF PREVENTION

SINCE the March issue of this REVIEW appeared there have been seven coal mine explosions in which a total of 133 men were killed—one at Ehrenfeld, Pa., March 30, **killing 4 miners;** one at Harrisburg, Ill., March 30, **killing 8 miners;** one at Washington, Pa., April 2, **killing 6 miners;** one at Everettsville, W. Va., April 30, **killing 97 miners;** one at Welch, W. Va., May 13, **killing 8 miners;** one at Trinidad, Colo., May 27, **killing 5 miners;** and one at Wilkes Barre, Pa., May 27, **killing 5 miners.**

In the two Pennsylvania explosions at Ehrenfeld and Washington 10 men were killed, but, as reported elsewhere in this REVIEW, the lives of 700 miners were saved owing to the fact that the mines were protected with rock dust which smothered the coal dust explosion.

In the past five and a half years 59 "major" coal mine explosions have caused the death of 1,707 miners.

In 1926, 16 explosions killed 349 men.
In 1925, 10 explosions killed 237 men.
In 1924, 10 explosions killed 459 men.
In 1923, 5 explosions killed 265 men.
In 1922, 11 explosions killed 264 men.

That the record for 1926 and 1925 is not quite as shocking as that for 1924 is doubtless due in a measure to the remarkable, though belated activity of coal companies, beginning in 1924, in installing the rock dust safeguard in their bituminous mines—activity which has continued in 1927 until more than 214 mine companies are now rock dusting. However, every year of delay by the states in adopting laws to require rock dusting of all bituminous mines means the tragic killing of about 300 men.

Scores of editors and writers have in recent months cooperated in the campaign for the prevention of needless coal mine accidents by demanding that state legislatures promptly enact laws to require the rock dusting of bituminous mines to prevent coal dust explosions.

How much longer shall these killings continue? ("The great explosions should not be considered to be normal occupational accidents," says the director of the federal Bureau of Mines.) When will the public insist upon removing for all time the dreaded spectre of violent death that stalks through the mines? These questions—which must here again be raised—have been asked in every issue of this REVIEW since December, 1922. And in each new issue, with but a single exception, it has been necessary to record the news of one or more new disasters.

Mine bureaus have existed for many years. Accident compensation laws have provided at least partial relief for those left dependent. **But safety standards are still inadequate. In ten years we have killed more than 25,000 coal miners!** The United States Bureau of Mines has shown that many of the worst hazards of mining can be eliminated. The director of the Bureau has declared that "explosions can and must be prevented." Results, however, depend upon local and state action.

In order to make safety work in the mines more effective the American Association for Labor Legislation is urging the adoption of a program for strengthening protective legislation, which includes—

1. The adoption of uniform legal minimum standards of safety;

2. The use underground of no explosive that is not after scientific investigation numbered among the "permissibles;" the strict limitation of "shooting off the solid;" and the use of shale or approved rock dust to check the spread of coal dust explosions;

3. Reward careful employers and penalize the less scrupulous, by the universal adoption of schedule rating for insurance under accident compensation laws, with a further graduated penalty for cases of willful failure to put into effect legal safety regulations;

4. An adequate mine inspection staff selected upon a merit basis of training and experience, fairly paid, for reasonably long tenure of office and protected from partisan interference whether political or industrial;

5. Greater public authority, federal and state, to procure and disseminate information, and to establish and maintain on a uniform basis reasonable minimum standards of safety.

The Association's program of prevention of needless coal mine disasters—discussed more fully in this REVIEW for March, 1924—has aroused widespread interest. It has been put forward during the past three years with the active cooperation of the press, and after consultation with mine operators and engineers, representatives of the miners' oganizations, state and federal mine inspectors, and an examination of published records.

As a result of the Castle Gate explosion in March, 1924, Utah promptly pointed the way by adopting the most comprehensive coal mine safety code in America, including the required use of rock dust. Five additional states—Pennsylvania, Wyoming and West Virginia in 1925, and Indiana and Ohio in 1927—have already enacted laws providing for the rock dusting of bituminous mines.

Why should there be further delay in the other nineteen bituminous states in taking the necessary preventive measures? Why continue NEEDLESSLY to destroy property in an essential industry and sacrifice additional hundreds of precious human lives?

Pioneers in Rock Dusting

Roll of Honor of Coal Companies Using Rock Dust to Prevent Coal Dust Explosions

214 Companies in Seventeen States and Canada!

(EDITOR'S NOTE: When in December, 1922, after calling attention to the increasing toll of lives in coal mine disasters, the American Association for Labor Legislation opened its present campaign for the adoption of preventive measures, it was able to secure from federal and state official sources the names of only three coal companies in the United States and Canada that were using rock dust to prevent coal dust explosions. As the campaign has progressed during the past four years, the Association has been informed of the installation of rock-dusting methods by at least 211 additional companies. Such companies should be commended for taking the lead in the adoption of this simple, reasonably inexpensive and effective safeguard against disasters. Following is the list, as of June 1, 1927, of coal companies that have equipped one or more of their mines with the rock dust safeguard, or have begun to install it.)

ALABAMA—21

Gulf States Steel Company—Sloss-Sheffield Steel and Iron Company—De Bardeleben Coal Corporation—Galloway Coal Company—Yolande Coal and Coke Company—Davis Creek Coal and Coke Company—Tennessee Coal, Iron and Railroad Company—Newcastle Coal Company—Alabama By-Products Corporation—Franklin Coal Mining Company—Alabama Fuel and Iron Company—Republic Iron and Steel Company—The Roden Coal Company—Birmingham-Trussville Iron Company—Porter Coal Company—Southern Coal and Coke Company—Little Gem Coal Company—Little Cahaba Coal Company—Railway Fuel Company—Collinsville Coal and Coke Company—Stith Coal Company.

COLORADO—8

Victor American Fuel Company—Royal Fuel Company—American Smelting and Refining Company—Alamo Coal Company—Colorado Fuel and Iron Company—South Canon Mine Leasing Company—Barbour Coal Company—Gilson Asphaltum Company.

ILLINOIS—15

Old Ben Coal Corporation—Valier Coal Company—Union Colliery Company—Madison Coal Corporation—Chicago, Wilmington and Franklin Coal Company—Peabody Coal Company—Industrial Coal Company—Crerar-Clinch Coal Company—Cosgrove-Meehan Coal Company—Bell and Zoller Mining Company—Forrester Coal and Coke Company—Illinois Coal Company—Consolidated Coal Company—St. Louis Coal and Iron Company—Moweaqua Coal and Manufacturing Company.

INDIANA—7

Eureka Coal Company—Shirkie Coal Company—Binkley Coal Company—Sugar Valley Coal Company—City Coal Company—Princeton Mining Company—Knox Consolidated Coal Company.

KANSAS—5

Hamilton Coal and Mercantile Company—Wilbert and Schreeb—Krueger Coal Company—Mackie, J.—Clemens Coal Company.

KENTUCKY—8

West Kentucky Coal Company—Duvin Coal Company—Trio Coal Company—Diamond Coal Company—Pike-Floyd Coal Company—Leckie Collieries Company—Harlan Coal and Coke Company—The Harlan Fuel Company.

MARYLAND—1

The Davis Coal and Coke Company.

NEW MEXICO—5

Phelps Dodge Corporation—Gallup American Coal Company—St. Louis, Rocky Mountain and Pacific Company—Albuquerque and Cerrillos Coal Company—Gallup Southwestern Coal Company.

OHIO—4

Powhatan Mining Company—Wheeling Steel Corporation—Carnegie Steel Corporation—American Sheet and Tin Plate Company.

OKLAHOMA—3

Rock Island Coal Company—Superior Smokeless Coal Company—McAlester Edwards Coal Company.

PENNSYLVANIA—75

Inland Collieries Company—Pennsylvania Coal Corporation—Pennsylvania Coal and Coke Corporation—Springfield Coal Mining Company—Eastern Coke Company—Tower Hill-Connellsville Coke Company—Republic Iron and Steel Company—Thompson-Connellsville Coke Company—Hecla Coal and Coke Company—Allegheny-Pittsburgh Coal Company—Consumers Mining Company—Hillman Coal and Coke Company—Pittsburgh Terminal Coal Company—Pittsburgh Coal Company—Westmoreland Coal Company—Peale, Peacock and Kerr—Lincoln Gas Coal Company—Creighton Coal Company—Ontario Gas Coal Company—Republic Collieries Company—West Penn Power Company—Oliver and Snyder Steel Company—Buckeye Coal Company—Pickands-Mather and Company—Berwind-White Coal Mining Company—Penelec Coal Corporation—Bethlehem Mines Corporation—National Mining Company—Maryland Coal Company—Pittsburgh Plate Glass Company—Barnes Coal Company—H. C. Frick Coke Company—Orient Coal and Coke Company—Ocean Coal Company—Keystone Coal and Coke Company—Vesta Coal Company—Crucible Fuel Company—Langeloth Coal Company—Pittsburgh and Eastern Coal Company—Carnegie Coal Company—Jos. H. Reilly Coal Company—Ebensburg Coal Company—Monroe Coal Mining Company—Imperial Cardiff Coal Company—Valley Smokeless Coal Company—Harwick Coal and Coke Company—Valley Camp Coal Company—Peabody Coal Company—Clarkville Gas Coal Company—Monarch Fuel Company—Davis Coal and Coke Company—American Zinc and Chemical Company—Chartiers Creek Coal Com-

pany—Graceton Coal and Coke Company—Jamison Coal and Coke Company—Lilley Coal and Coke Company—Northwestern Mining and Exchange Company—Poland Coal Company—Edward Tomajko—Warwick Coal Company—Bird Coal Company—Jefferson and Clearfield Coal and Iron Company—Russell Coal Mining Company—Cherrytree Coal Company—Clearfield Bituminous Coal Corporation—Union Collieries Company—Pine Run Coal and Coke Company—New Field By-Products Company—Ellsworth Collieries Company—Hillman Gas Coal Company—Monessen Coal and Coke Company—Merimack Coal Company—W. J. Rainey, Inc.—Apollo Coal Mining Company—Allegheny Coal and Coke Company.

TENNESSEE—1

Tennessee Coal, Iron and Railroad Company.

UTAH—16

Utah Fuel Company—United States Fuel Company—Columbia Steel Corporation—Royal Coal Company—Independent Coal and Coke Company—Carbon Fuel Company—Liberty Fuel Company—Peerless Coal Company—Spring Canyon Coal Company—Standard Coal Company—MacLean Coal Company—Lion Coal Company—American Fuel Company—Scofield Coal Company—Kenney Coal Company—Mutual Coal Company.

VIRGINIA—1

Stonega Coal and Coke Company.

WASHINGTON—1

Northwestern Improvement Company.

WEST VIRGINIA—32

Boone County Coal Corporation—Island Creek Coal Company—Byrne Gas Coal Company—Bethlehem Mines Corporation—Youngstown Sheet and Tube Company—Raleigh-Wyoming Coal Company—Pocahontas Fuel Company—Jamison Coal and Coke Company—New England Fuel and Transportation Company—Bertha Consumers Company—E. E. White Coal Company—Consolidation Coal Company—Glendale Gas Coal Company—Elm Grove Mining Company—Hitchman Coal and Coke Company—Windsor Power House Coal Company—Lake Superior Coal Company—Landstreet Downey Coal Company—Crab Orchard Improvement Coal Company—Elkhorn Piney Coal Mining Company—Kingston Pocahontas Coal Company—Ephraim Creek Coal and Coke Company—Davis Coal and Coke Company—Bottom Creek Coal and Coke Company—Stonega Coke and Coal Company—New River Company—Buffalo Thacker Coal Company—West Virginia Coal and Coke Company—Pond Creek Coal Company—Thomas Love Coal Company—C. C. B. Smokeless Coal Company—Connellsville By-Product Company.

WYOMING—2

Union Pacific Coal Company—Central Coal and Coke Company.

CANADA—9

British Empire Steel Company—Dominion Coal Company—Hillcrest Colliery, Ltd.—International Coal and Coke Company—Crow's Nest Pass Coal Company—West Canadian Collieries—McGillvray Creek Coal and Coke Company, Ltd.—Luscar Collieries, Ltd.—Canmore Coal Company.

The Journeymen Stonecutters' Decision and Other Recent Decisions against Organized Labor

By Edwin E. Witte
Chief, Wisconsin Legislative Reference Library

AFTER having remained dormant for several years, the ever-smouldering volcano of resentment which organized labor entertains against the courts over the use of injunctions in labor disputes has suddenly again burst forth into glaring flame. This outburst followed the decision of the United States Supreme Court in the *Bedford Cut Stone Company v. Journeymen Stone Cutters' Association* case which was handed down early in April.[1] This case grew out of the course pursued by the stone cutters' unions throughout the country in refusing to work upon or erect stone produced in quarries of the Bedford, Indiana, district, which since 1921 have been operated on a non-union basis. Both the district court and the circuit court of appeals held that this situation afforded the plaintiffs no ground for injunctive relief, but the Supreme Court reached the opposite conclusion and held that the course pursued by the stone cutters violated the anti-trust laws and that under the Clayton act the plaintiffs were entitled to an injunction.

Justices Brandeis and Holmes dissented. Dissents by these two justices in labor cases are neither novel nor unexpected; but this time they expressed their dissent in language which alone is a sufficient explanation for the sustained interest which this case has aroused in many circles. **"If, on the undisputed facts in this case,"** said Justice Brandeis in his dissent in which Justice Holmes concurred, **"refusal to work can be enjoined; Congress created by the Sherman Law and the Clayton act an instrument for imposing restraints upon labor which reminds of involuntary servitude."**

Taking their cue from this striking statement, many labor leaders and labor periodicals refer to the majority opinion as "A Slave Decision." On the other hand, the League for Industrial Rights regards this decision as another milestone in the struggle for individual liberty.

To people who have been following closely the decisions in labor

[1] No. 412—October Term, 1926; decision rendered, April 11, 1927.

cases, the conclusion reached by the Supreme Court in this case was not wholly unexpected. This case presented a situation very similar to that upon which the Supreme Court passed as long ago as 1915 in the *Paine Lumber Company case* (244 U. S. 659). Already at that time the Supreme Court held strikes against non-union material to be unlawful under the federal anti-trust laws, although the court concluded that under these laws as they stood when this case was started no private party could secure an injunction. The Clayton act, however, changed the law in this respect, and, thus, figures in the Bedford Cut Stone case as the statute which entitles the plaintiffs to an injunction.

This case was peculiarly free from features which often obscure the real issues in labor cases. It involved no violence or any semblance thereof, not even picketing. Nor did it involve any workmen other than members of the same national union which figured in the original dispute at Bedford. Yet neither the fact that the strikes involved were all peaceful, nor the fact that no efforts were made to induce crafts other than the stone cutters to go on sympathetic strikes saved the course pursued by the stone cutters from condemnation as an unlawful conspiracy to restrain interstate commerce. **Henceforth, it must be regarded as settled law that all strikes against the use of non-union material are unlawful, and that, in most cases, the anti-trust laws can be invoked against them.**

This is very different from what organized labor has always believed to be the law, that the right to strike is absolute and that workmen may strike for any or no reason. While there is really little that is new in the Bedford Cut Stone Company decision, the doctrines therein announced have never been accepted by labor as being the law, and, consequently, have aroused widespread alarm and resentment.

Nor is this the only case which has alarmed and angered organized labor. In the few weeks since this decision a half dozen other important cases have been decided against labor in other courts, most of them unexpectedly. The United States District Court in New York City has issued an injunction to the Decorative Stone Company against the Building Trades Council of Westchester upon facts quite similar to those involved in the Bedford Cut Stone Company case, after having twice refused to issue such an injunction. The Circuit Court of Appeals in Chicago has held that two union

officers who were convicted of violating the very sweeping injunction issued by Judge Baltzell in the Indianapolis street car strike of 1926 were not entitled to a jury trial under the Clayton act because the offense of which they were accused did not constitute a crime in the ordinary sense. The Circuit Court of Appeals of the Fourth Circuit has affirmed the twelve sweeping injunctions which were issued against the United Mine Workers in West Virginia during the strike of 1922, which in one form or another have been before the same court on several prior occasions. Judge Delhanty in New York City has issued a permanent injunction enjoining the employees of the Interborough Rapid Transit Company from becoming members of the Amalgamated Association of Street and Electric Railway Employees. In Boston, a little earlier, a state court held the milk wagon drivers' union liable in damages for more than $63,000 to an employer against whom it has been waging a strike and boycott.

This list could easily be extended, if less widely noted cases were included. It will suffice, however, to explain why there has been no apparent let-up in the intensity of the eruption occasioned by the Bedford Cut Stone Company decision. **All these cases have driven home, particularly to the leaders of organized labor, the unfavorable legal position which workmen occupy when engaged in industrial disputes.**

Beyond question the law of labor combinations in this country has constantly become more and more unfavorable to labor. The Clayton act and the state anti-injunction laws have proved valueless. Gradually, also, somewhat more effective methods have been evolved for enforcing compliance with court decrees issued in connection with labor disputes, although there is still a wide difference between what the Supreme Courts hold to be the law and the rights which employers can really enforce.

These developments have not cowed organized labor, nor reconciled it to an acceptance of the law of labor combinations as interpreted by the courts. Rather, they have but served to widen the breach between organized labor and the courts. There is an ever-smouldering opposition and haze of suspicion, which will burst forth into violent flame whenever an important case is decided against labor, however well grounded the decision may be upon precedents. The injunction question is as far from solution to-day as it ever has been and still constitutes one of the foremost problems confronting this country.

Labor's Campaign Against "Yellow Dog" Contracts Makes Notable Gains

By Cornelius Cochrane

THE anti-"yellow dog" bill which was first introduced in the Ohio legislature two years ago[1] passed the Ohio Senate at the recent session after the constitutionality of the proposed act had been upheld by the state's Attorney General in a sweeping official opinion.

The bill declares the provisions of any contract whereby either party agrees not to join, become or remain a member of a labor union or of any organization of employers, or agrees in such event to withdraw from the employment relation, to be against public policy and wholly void. Upon this bill, which was carefully formulated by outstanding legal authorities, organized labor is basing its fight against the obnoxious "yellow dog" contract by means of which many employers have succeeded in effectually locking out union men.[2] Labor declares that this practice by which wage-earners are compelled to promise, as a condition of employment, that they will not join a labor union not only deprives them of their right of organization but has the effect of denying organized workers their constitutional right of free speech and free assemblage.[3]

The introduction of the bill on January 18 by Senator Rebman opened "the hottest legislative fight I have ever been in, in Ohio," said John P. Frey, president of the Ohio Federation of Labor, under whose leadership the campaign was conducted.

Three hundred and fifty delegates from the local state union and central labor organizations representing every legislative district in the state supported the proposed act at the public hearing.

Thomas J. Donnelly, secretary of the State Federation, who opened the argument for the labor forces, declared that labor has

[1] See "Attacking the 'Yellow Dog' in Labor Contracts," by Cornelius Cochrane, *American Labor Legislation Review*, Vol. XV, No. 2, p. 151.
[2] See "Why Organized Labor is Fighting 'Yellow Dog' Contracts," by Cornelius Cochrane, *American Labor Legislation Review*, Vol. XV, No. 3, p. 227.
[3] *Ibid.*

the right to organize and bargain collectively and that the United States Supreme Court has said that the state may properly invoke its police power to protect that right. "This bill," he continued, "proposes to exercise the police power of the state to prevent a so-called individual contract which denies to the workers their inherent and constitutional rights."

William Frew Long, president of the American Plan Association of Cleveland, argued in opposition that organized labor's stand is inconsistent—"They say that the employer shall be permitted to say to a man 'You cannot work here, unless you belong to a labor union.' * * * Now they turn around on the other hand and they say they want to pass a bill which will not permit the employer to say, 'You cannot work here unless you do belong to a labor union.' We submit that if one thing is fair, the other thing is fair."

President Frey on behalf of labor traced the development in the use of the individual contract by employers to the point now reached where "they compelled the men, as the price of securing a job, to sign a contract which pledged him that after he left the firm's employ, he would never again talk to any of the firm's employees on the question of trades unionism or endeavor to prevail upon them to join a union * * *. We place before you the fact that under the guise of a contract, our movement is being strangled—or the threat is being made to strangle it; that if this proposition, this new form of contract was carried throughout the industries of this state, there could be no organization among wage-earners; their right to organization would have been taken away from them as completely as though they had become serfs or chattel slaves once more."

By a unanimous vote, the Senate committee reported the bill for passage over the well-organized opposition of the "open-shoppers." Thereupon the Employers' Association utilized every conceivable strategy to kill the legislation. An effort to recommit the bill was defeated and then the Republican floor leader raised the question of constitutionality.

The resulting opinion of the Attorney General of the state, Edward C. Turner, is an outspoken defense of collective bargaining. **"The bill is designed to preserve in this state on behalf of both labor and employers the right to collective bargaining,"** wrote Mr. Turner in response to the request of the chairman of

the Rules committee. "In my opinion this object is within the police power of the state and therefore is a proper subject of legislative action."

His argument in substance is as follows: The right of declaring the public policy of a state is vested in the legislature subject of course to review by the courts. While the right of contract is a part of the individual freedom protected by the constitution, that right is not absolute but is subject to limits and restraints in the interest of public welfare. The welfare of the working man and of employers is a part of the welfare of the state. A measure calculated to insure industrial tranquillity and insure or increase efficiency between employers and labor would come within "public welfare." The lessening of labor turnover and the continuity of production through the avoidance of strikes and lockouts are matters of grave public concern. "Collective bargaining will almost inevitably lead to term contracts and confer rights upon both sides which may be protected by the courts." In support of his argument, the Attorney General quotes from numerous decisions of the United State Supreme Court and other authorities including the National War Labor Board and concludes: "I am of the opinion that Senate Bill Number 30, if enacted into law, would not infringe either upon the rights guaranteed employers or employees or the right of contract guaranteed under the constitution."

The bill passed the Senate April 6, by a vote of 29 to 3 and was referred to the House.

When the House committee failed to render a report after a public hearing on April 13, the bill was forced from the committee by a vote in the House on April 20. The Rules committee, however, refused to bring the bill up, and a motion to suspend the rules and place the bill on passage did not receive the necessary two-thirds vote although a **majority in the House supported the motion.**

Labor's attack on the "yellow dog" contract has not been limited to Ohio. The bill in identical form was introduced in Massachusetts, Illinois and California. At the hearing in Sacramento, with Paul Scharrenburg, secretary of the California Federation, directing the labor forces, employers failed in their effort to have the act amended and the committee by an almost unanimous vote reported the bill out with recommendation for its passage. By a

vote of 43 to 36 the bill passed in the Assembly, but it was lost in the Senate by the close margin of two votes.

Similar progress was made in Illinois, under the leadership of President Walker and Secretary Olander of the State Federation of Labor, where the House committee by a vote of 20 to 5 rendered a favorable report.

"I think," said President Walker at the public hearing on the bill, "that the members of the legislature who make up this committee can appreciate the influences that may compel a lone individual workingman who may be without funds, his family suffering and perhaps sick * * * what discretion has a man under those circumstances but to sign any contract, no matter what it is, if it means relief for his family? Is he on an equal footing in signing that contract with these great corporations? * * * We do not believe that a contract made under those circumstances should be recognized as valid. We believe the individual workman should have the right at any time he sees fit to join an organization of his fellows, for their mutual protection, and for the proper advancement of their interests. We believe that his fellows should have the right to discuss this matter with him, to make clear to him what the whole problem is and where his best interests lie; and he should then have the right as an American citizen to pursue the course that will best protect and promote the interests of himself and his family, just so he does it in accord with the rights and liberties guaranteed him in the Declaration of Independence and the Constitution of the United States." Four out of every five members of the committee agreed with Mr. Walker. As this REVIEW goes to press, the legislature has not yet brought the bill to a vote.

Two years ago, a tie vote in the Committee on Judiciary in Ohio was the most labor could accomplish. The progress made there and elsewhere this year warrants the prediction that this legislation will be successfully championed by labor generally in the United States in the near future.

New York at Last Enacts a So-Called Forty-Eight Hour Law

FOURTEEN years of effort in New York to secure a forty-eight-hour-week law for women and minors in industry has resulted in the enactment by the 1927 legislature of "a compromise."

Instead of a straight-out forty-eight-hour law, the measure as enacted is really a forty-nine-and-a-half-hour law. It has, however, been accepted by the Consumers' League, the League of Women Voters, the State Federation of Labor, and other organizations that have taken part in the long campaign for reasonable working hours for women, on the principle that it is a step in advance over the existing legal fifty-four-hour week, and that "half a loaf is better than no bread."

The new act calls for an eight-hour day when women employees work six days weekly; a nine-hour day when a weekly half-holiday is given; and permits seventy-eight hours of overtime, which the employer may distribute evenly over the year or may use for a fifty-four-hour week during a thirteen-week rush period.

Governor Alfred E. Smith, in signing the bill on March 30, referred in terse and stinging terms to the obstructive tactics employed by the opposition (a combination of reactionary Republicans and Associated Industries' lobbyists) in delaying action on this meritorious legislation year after year in defiance of strong public demand. Says Governor Smith:

"This bill, providing for a forty-eight hour week, has been before the State of New York for at least fourteen years. I have advocated it in my annual and special messages since I first took office as Governor. It has been the subject of investigation, debate and bitter political controversy. This bill in one form or another has repeatedly passed one house of the legislature, only to be defeated in the other house by as narrow a margin as one or two votes. On at least two occasions the Assembly defeated this bill by one vote under circumstances which were the subject of state wide comment.

"The principles of this bill have been denounced and it has repeatedly been called unworkable. Last year when it became apparent that the public would no longer tolerate a delay in adopting this beneficial measure a legislative commission was appointed to investi-

gate this subject along with several others affecting labor and workmen's compensation and the commission reported in favor of the forty-eight hour bill with certain exceptions. Some of these exceptions and reservations might in my opinion better have been omitted, but the principle is established and the bill provides a substantial part of what many people of the state have been contending for for years.

"My only source of regret in approving this bill is that its benefits should have been withheld for so many years for no good reason and that this general welfare act should needlessly have become the subject of political controversy."

Rock Dusting More Effective Than Watering

ROCK DUSTING bituminous mines to prevent coal dust explosions is recognized as the effective remedy, whereas the old method of sprinkling with water is ineffective and leads to a false sense of security, declared P. H. Burnell, assistant general superintendent of the Owl Creek Coal Company, Gebo, Wyoming, in a recent address before the Rocky Mountain Coal Mining Institute.

"The general inefficiency of water as a means of rendering coal dust non-explosive," said Mr. Burnell, **"is shown by the many dust explosions that have occurred in mines where sprinkling was carefully and thoroughly practiced."**

Mr. Burnell points out that "dry coal dust is extremely difficult to wet;" that "it has a tendency to repel water and unless there is mechanical mixing of some kind the dust will float on the surface of pools for an indefinite period." An advantage of rock dust is that it aids in keeping coal dust wet, since it has been proved that coal dust mingled with shale or limestone dust absorbs water more readily than when not so mixed.

"Where rock dust is applied in sufficient quantities," he declared, "the mine will remain safe, depending upon the quantity of coal dust deposited from the air current, for days, weeks, or even months without further treatment. On the other hand **where sprinkling is employed the dust may become dangerous** if the mine is not thoroughly wet down every day, particularly during the winter season."

International Competition in Labor Conditions and the Maintenance of Labor Standards

By Leifur Magnusson

Director, Washington Branch, International Labor Office

COMPETITION in international labor conditions is a natural and obvious concomitant of trade competition. The mere act of selling in world markets involves not only the question of relative advantage in raw materials and power resources, but also the labor factor. It is the purpose of this paper to outline the economic background of this problem and to indicate briefly the story of the organization of the chief industrial countries with a view to coping with the problem of international competition in social standards.

The international labor problem might better be termed the international labor differential, for the problem arises from differences in the labor standards of various countries in the world. If there were no differences in the economic well-being of labor the world over, no differences in the cheapness with which it could be hired, no differences in the abundance of its supply, no difference in the freedom with which it could be exploited, there would be no international labor problem. Nor would it be a world problem were it not for the fact that industry and its products are not limited to distribution within closed areas, but find their way into all parts of the world. The world is a universal market which takes small account of political boundaries, tariff walls, export controls, and immigration barriers. Indeed, these impediments merely affirm the economic unity of the world, for their sole purpose is to guide the flow of goods and peoples, to keep them out of certain channels, to dam the world stream in some way; in short, to regulate the supply and demand of goods and labor.

The Labor Differential

The importance of the labor factor may be more concretely indicated in various ways. Take, for example, the facts as to the differing efficiency and effectiveness of labor in different parts of the world. Professor Taussig brought together some vivid data show-

ing the output per worker over given periods in some leading lines. In the production of cement, output per worker was as 2 to 1 between United States and Great Britain; in sugar about the same; flour 3 to 2; steel 3 to 1; pig iron 2 to 1.1. Production of window glass per square metre in Sweden, Belgium, United States (hand and machine manufacturing), indicates a direct relationship between output and time worked. Thus, the output in square metres per worker is 10 in Sweden, 11 in Belgium, 16 in the United States, for hand-blowing glass, and 21 for machine process glass. However, in money costs (per 100 square feet) the Swedish cost is $3.03 against the American $3.69, while the Belgian cost is $2.41. In Japan the worker produced 104 pounds of yarn per day against the American output of 414 pounds; the Japanese weaver 145 yards, the American 450 on plain looms, and 1,100 on the automatic. "A Japanese cotton mill requires approximately four times as many employees for the same amount of machinery as does a similar American mill."[1] But Japanese wages are not as 1 to 4 compared with American wages, but rather as 1 to 8. A Japanese weaver in 1923 earned 10.5 sen (5 to 6 cents)[2] per hour against estimated full-time earnings of an American weaver of 40 to 44 cents per hour.[3] It is not strange, therefore, to find that a report of the tariff commission in 1921 gave as a principal advantage favoring the Japanese cotton industry "the low standard of living and wages prevailing in that country."[4]

An equally striking illustration of the labor differential arises somewhat nearer home. It was something of a shock to read in the press recently the declaration of New England manufacturers that what they required if their industry was to survive in that section of the country against Southern competition, was freedom to work women employees longer hours, and opportunity to hire child workers below fixed standards. Here was the labor differential in human

[1] F. W. Taussig: "Labor Costs in the United States." *Quarterly Journal of Economics*, November, 1924.

[2] International Labor Office. "Wage Changes in Various Countries," 1926, p. 99.

[3] United States Bureau of Labor Statistics, Bulletin No. 371.

[4] United States Tariff Commission: "The Japanese Cotton Industry and Trade," 1921, pp. 8, 12, 13. "The average Japanese cotton mill pays each operative a wage amounting to about one-fifth of that being paid in the Southern mills of the United States, whose products are most nearly similar to those in Japan. Owing to the necessity of employing about four times as many workers in order to operate the same number of spindles or looms and accessory machinery, the total wage cost to the average Japanese mill of operating a given amount of machinery per 10-hour day amounts to between 70 and 80 per cent of the similar cost to the American mill."

terms, in hours of work, night work, and employment of children; in short, in violation and breakdown of accepted standards. These manufacturers may be entirely correct in their position as respects their relative costs of production in comparison with the Southern mills. The labor differential is admittedly a controlling factor, and clearly raises the question as to whether or not labor is to be considered, in the language of the Treaty of Peace merely a commodity or article of commerce.

Without taking any more time, therefore, in setting forth what is in reality a platitude, that labor differentials are vital factors in trade and commerce, whether international, national, regional or local as between establishments, it may be helpful to indicate a few of the post-war developments which to my mind enhanced the importance of the labor factor.

Present Day Importance of Labor Differential

First of all, there has been the rapid industrialization of areas hitherto relatively agricultural or only nascently industrially developed. Japan obviously is the classical example. Between 1909 and 1922 the number of factories in Japan increased 44 per cent; the number of workers 111 per cent. In India the rise of the cotton industry has been equally phenomenal. In both these countries and in China an excellent measure of the rapid industrialization is the heavy increase in cotton mill machinery imported, indicating the potential competitive force of the Orient. Even the hitherto unexploited areas in Africa have come into the foreground with the new system of mandates, and a future of comparatively rapid industrial evolution is ahead. Native labor is coming to play a part in the economy of the world as it has never done before. In short, the period since the world war has witnessed the constant enlargement of the area of labor competition and potential exploitation.

A second aspect of the situation which enhances the importance of the labor factor in world trade and commerce arises from the tremendous disequilibrium in wealth distribution which has arisen from the war. The position of debtor and creditor countries has been reversed. Every force will therefore be brought to bear upon the debtor country to create the necessary surplus of goods to pay the creditor. This can be done only by producing goods at a less cost of production in the debtor country than similar goods in the creditor country. Every factor in production in the debtor country, whether labor or materials, must be made to yield the maximum.

And the labor factor is standards of living. Thus we may witness labor in creditor countries apparently assisting in the breaking down of the standards of workers in the debtor countries.[5]

Now, it is not desired to argue against low cost production as such, but against cheap production at the expense of the labor factor. One is too prone to watch only the flow and exchange of goods which are in a sense superficial manifestations of more fundamental human conflicts. The real stakes of international competition are human standards of living.

The part that American capital may play in this battle of social standards is most important. If American capital which is being attracted out of the country can produce goods cheaper abroad than similar goods in America, to that extent production will be cut down in America. Instead of doing the producing in this country with immigrant labor which has been excluded, production will take place at the source of supply of labor. As this newer competition with American goods takes place, it takes no wild imagination to foresee the possibilities of American capital in Japan with the use of cheap labor producing cotton goods so cheaply as to drive out of business home capital in America, invested in the cotton mills in this country, or at least making inevitable the same demand for lowered standards from Southern mills as now emanates from the Northern textile mills. It would look as if it were high time for someone to step in to defend competitors from the destructive effects of their own efforts.

Nature of the Problem

Internationalizing the question of labor legislation has meant no change in the nature of the problem. It is still one of restricting the activities of the two distinct economic groups of employers and workers. It is still a question of preventing the freedom of bargaining power between them becoming oppressive to the weaker of the two. It still remains the outstanding means of preventing an unscrupulous employer from unfairly out-competing a fellow employer and a hard-pressed necessitous workingman from lowering

[5] The real wage studies of the International Labor Office are significant in two ways. First, they seem to show that real wages so far as available tend to be the most depressed in those lines subject to international competition. Secondly, they would seem to indicate the existence of an amount of social control or trade union strength or workers' influence in affairs not always realized. For most of the European countries show real wages above the pre-war level or at or near that level. The really astonishing thing is that standards have been maintained at all when one considers the length and depth of the post-war depression.

the standards of life and comfort of his fellow workingmen. Labor legislation is designed admittedly to prevent oppressive and usurious conditions of work and of business competition; even more, it is still a most effective stimulant to bring about improvements in management and organization of labor. It acts, of course, like other forces to give a scarcity value not only to labor, but to capable management. Labor legislation has been a constant, vivid and effective denial of the so-called fixed, iron laws of economics. It has acted to check the vices of either side, to correct and appraise their acts relative to social change and adjustment.

Evolution in Practice

The problem is an old one. It arose as a very practical one in the days of Robert Owen, when the world faced a condition of affairs following the Napoleonic wars quite similar to those of to-day. The post-war Napoleonic era was one of active production. It was a period of rapid mechanization of industry, which took place in response to heavy war demands. The Napoleonic wars were followed by heavy unemployment, and depression was universal over the European continent. Hence these familiar words from Owen: "Want of demand at remunerative prices compelled the master producers to consider what they could do to diminish the amount of their productions and the cost of producing, until the surplus stocks could be taken out of the market." [6]

Excessive competition had brought social chaos and breakdown, an almost universal poverty for the working classes. But before any practical machinery or treaty-making to deal with it could be worked out, certain tendencies helped to solve and to obscure it for the time being. Emigration to the new world and overseas dominions tended to take care of the surplus labor of Europe and to build up a new industrialism in the Western Hemisphere. But these never succeeded in disposing of the matter, and so we find helpful experimenting of small but alert groups who appeared to realize the nature of the problem.

The International Association for Labor Legislation was created and did some most admirable work in response to these efforts. It forced the consideration of two treaties, one prohibiting the use of white phosphorus in the manufacture of matches, and a second prohibiting the employment of women at night in factory work. It lacked, however, active organized support; the Governments declined

[6] G. D. H. Cole: "Robert Owen," 1925, p. 133.

to commit themselves and those forces most concerned—the trade unions and employers—were not participating. To make a long story short, it took ultimately all the war-time experience in international control of supplies and resources, the joint action of trade unions and industrialists in the war administrations, and all the forces making for social revolution and unrest in 1918, to bring home to the nations of the world the urgency of the problem of living standards, and to make it a question of practical politics.

Machinery of the International Labor Organization

It was anything but simple to make social legislation a thing of international concern. It had always been accepted as a purely national problem, and nations were, as they still are, pretty jealous of their national sovereignty. Very plainly political inventiveness of a high order was called for if anything was to be done in an international way. The Paris Commission on International Labor Legislation of the Peace Conference worked on the problem of machinery for upward of two months. As a result of its efforts came the International Labor Organization, with an annual Conference and a Labor Office.

There were some who wanted to make it a sovereign organization whose word would be final law. Such an organization would not probably long have survived its own birth. Hence, something entirely different was created, and because of its unique character, and because it has been so frequently not understood, a brief word as to its nature would seem necessary.

Essentially, it is as stated not a sovereign organization, but more truly a corporation, made up of Governments and limited to achieving particular ends. The Organization is an agent of the different nations. Its duties and functions are defined in its charter of incorporation as limited to the promotion of social justice and the acceptance of minimum labor standards to constitute a basis of fair competition for the world's markets. That it is not a politically sovereign organization is amply borne out by the fact that the constituent nations do not vote as individuals, but that each group of shareholders in the Organization—employers, workers and Governments—in the ratio of 1, 1, and 2 votes individually and independently of the other shareholders if their interests so dictate. To continue the analogy, the Conference as the central feature of the Organization becomes the meeting of the shareholders; the Governing Body, representing the interest of different kinds of shareholders

ers in fixed proportions, becomes the board of directors of the corporation; while the International Labor Office becomes the executive managerial staff of the business of the corporation.

The Labor Organization is in brief a piece of machinery for the purpose of manufacturing labor legislation of a standard grade and quality. It is required, for example, to produce labor legislation which recognizes not merely the commodity nature of labor, but its essential human aspect; it must seek to secure a minimum wage adequate to maintain a reasonable standard of life; it must affirm the right of association for lawful purposes; it must take as its guide the eight-hour day, and a minimum weekly rest; it is obligated to prohibit child labor. Its authority is sufficiently wide to cover the international aspect of migration, to consider the case of the agricultural worker, and the place and position of the seamen. Thus we see that the powers and functions of the corporation as contained in its charter are broad and all-inclusive.

But privileges, as we hear of so often, demand corresponding responsibilities. Hence the requirement that the corporation must make a report of its stewardship to its underlying shareholders. Not only is the annual meeting of shareholders public and its proceedings available, but the acts of its board of directors and its executive management are set forth in annual reports of the Director of the Labor Office. But more important is the fact that each nation is obligated to report the action which it has taken in respect of Draft Conventions and Recommendations ratified or accepted. And furthermore, every Draft Convention passed by a two-thirds majority of this Conference, must within a period not exceeding a year and a half be actually considered by the competent authorities in each of the 56 member nations of the Organization. This guarantees that some sort of consideration will be given the acts of the Conference.

Having renounced the notions of sovereignty, new methods had to be devised. Even the way of force was abandoned and also that substitute for force, which in democratic political organization takes the form of voting someone up or down, became a very minor element in the Organization. Reliance on publicity and understanding became the major characteristic of the functioning of the Organization. The method of conference and the creation of common consent became all-important. For group conflict of employers and employees can only be solved by finding a common ground of understanding. Either there must be found agreement on a common

point of interest, which has not hitherto been perceived by the two forces in conflict, or compromise of the issue at stake, such as may be involved in a compromise on wages, or hours of work, must be arrived at. It is for these reasons—reasons of group interests—that the International Labor Organization accepted in its makeup a representation of the groups involved—employer and worker—and added these to the representatives of the community as a whole in the shape of Government delegates—all in the proportion of 1, 1 and 2. The Conference has assembled each year nearly 300 delegates and technical advisers.[7]

The fact that the method adopted has involved finding common grounds of agreement or points of least friction and loss to either party affected meant that reliance must be had upon research and information. Indeed, the greatest difficulty connected with securing social legislation has lain in the uncertainties of the probable effects of such legislation. It has too often been a leap in the dark necessitated by scanty information.

To meet this difficulty the International Labor Office and its elaborate paraphernalia of research became the second principal adjunct of the Organization. The combination of open discussion of conflicts and the confronting of opposing groups in public conference with a research organization itself controlled by a tripartite board of employers, workers, and Governments, has resulted in the building up of a body of social legislation with a perfection and detail which has not been attained in any system of national social legislation.

[7]MEMBERS OF INTERNATIONAL LABOR CONFERENCE

	First 1919	Second 1920	Third 1921	Fourth 1922	Fifth 1923	Sixth 1924	Seventh 1925	Eighth 1926	Ninth 1926
Countries Represented ...	40	27	37	31	42	40	42	39	38
COUNTRIES HAVING									
2 Government Delegates	33	20	28	25	32	29	34	31	30
1 Government Delegate.	7	7	9	6	10	11	8	8	8
Employers Delegates ...	25	19	24	22	24	30	31	30	29
Workers Delegates	25	20	24	22	24	28	32	31	30
Total Number Delegates	123	86	115	100	122	127	139	131	127
Complete Delegations ..	23	16	22	21	22	24	29	28	27
Substitute Delegates ..	..	..	1	..	..	..	9	11	12
Technical Advisors									
Government	71	58	89	33	37	53	60	47	50
Employers	34	49	67	24	14	44	41	23	28
Workers.....	50	48	72	22	19	55	50	29	40
Substitute Advisors ...	..	..	2	1	..	5	3	2	2
Total Accredited Attendance.....	278	241	346	180	192	284	302	243	259

First, the Conference meets with a definite program of discussion; the items on its program have been carefully canvassed well in advance by experts of the Labor Office and members of the Governing Body. They rest upon a careful observation of social currents and economic possibilities existing at the time. In the second place, each item of the agenda is acted upon with a full knowledge of existing relevant data. The facts have been carefully garnered from the confusion of social attitude and the mass of technical detail. Third, when the Conference meets, each topic for discussion is assigned to a committee composed of the two group interests—workers and employers—assisted by an equal number of representatives of Government authorities. In these groups every detail of the legislation is discussed, and the varying interpretations put upon the phraseology by employer and worker respectively are given consideration. Under those circumstances it would indeed be difficult for anyone to insert jokers in the Draft Convention or Recommendation. Language could hardly be used to conceal thought. It seems to me it can be said without exaggeration that no such detail and meticulous process in drafting national social legislation exists anywhere. Indeed, a striking example of the effectiveness of the process is, that after years of charges and counter-charges with reference to the Eight-Hour Convention adopted by the First Conference at Washington in 1919, two meetings of ministers of labor of the principal industrial countries of the world were able to come to a unanimous agreement as to the meaning of the terms of that Draft Convention. Certainly the difficulty with it was not one of drafting and meaning of terms.

Application and Achievement

However elaborate the process of drafting conventions, the problem of application and realization of results is admittedly more important, the aim being to secure as nearly simultaneous action as possible by all countries. For in so far as labor legislation is a burden upon productive ability, or in so far as its immediate effects are not clear, each country fears to do anything until action is achieved by its neighbor. Hence, the follow-up work must be immediate and vigorous. It is at this point, therefore, that the use of substitute machinery for the ordinary processes of sovereignty becomes more important. For the only definite obligation to which each State Member is committed is, that it shall submit the standard treaty drafted by the Conference for the consideration of its com-

petent authority. After that, enthusiasm may grow lax and no follow-up maintained. For this reason large use is made of trade-union, employers' and other private organizations.

In the first place, details of application of standards laid down are frequently left to agreement between trade unions and the employers. It is in this way that certain exemptions are allowed under some of the Draft Conventions, and many questions of detailed application worked out. The trade unions if powerful, too, are vigilant to press for action and to observe enforcement. And those large bodies of private groups interested in social reform, such as the International Association for Social Progress and its various national branches become active agencies of publicity. Equally important, the Conference itself becomes a focal point of publicity because it is there the formal reports required by the different Governments concerning application of Draft Conventions are considered. Repeatedly, for example, India has criticized Japan for failure to ratify the Eight-Hour Convention and the one prohibiting night work of women. As a result of that constant criticism and reiteration Japan at the last Conference, through its official spokesmen, practically made a definite promise of ratification and enforcement. Lastly, at the Conference of 1926 a special committee was created to study and criticize the reports of the Governments made as to application of conventions. Thus, an increasing number of ways is being discovered for securing the ends sought. The question of machinery is the all-important one. It provides and opens up new channels of information and communication across the morass of misunderstanding and misinformation.

As to results, then. In the first place there has been no difficulty in finding common ground of understanding between workers and employers as to acceptable minima of labor legislation. In most cases the three groups have easily found that common ground and the acceptable minimum standards.[8] Where the groups have not voted together the Government delegates have voted with the workers.

[8] LOCATION OF GOVERNMENT MAJORITY VOTES, NINE SESSIONS INTERNATIONAL LABOR CONFERENCE, 1919 TO 1926

	All Measures	Draft Conventions
Government with workers	41	17
Government with employers	15	..
Three together	46	16
Government against others	2	..
Total	104	33

The second kind of progress has lain in the actual achievement of ratification and legislation. Ratification has shown a surprising increase *pari-passu* with the growing number of Draft Conventions enacted.[9] At the end of 1921 there were 49 ratifications, with 7 conventions then in force. In October, 1923, there were 109 ratifications, with 17 Draft Conventions in force. This increased to 143 in 1924, and 212 in 1925. There were in force 21 conventions with 241 ratifications in November, 1926. It must be remembered that this is the result of seven years of progress. It contrasts very favorably with the progress of international ratification of conventions before the World War. From 1890 to 1914, for example, the older process had achieved only two international labor conventions—the prohibition of the use of white phosphorus, and of the employment of women at night. For these two Draft Conventions, only 25 ratifications had been secured when the war broke out.

But progress in legislation frequently runs ahead or independently of ratification, as in the case, for example, of the eight-hour day. For this there are only seven ratifications at present,[10] though eight hours is the standard work-day by legislation in over 20 countries. Taking conventions in force at the beginning of 1926, I made an analysis of legislation in application of those Draft Conventions in existence before the Organization came into being and of legislation enacted since its creation. This analysis showed 150 pieces of legislation up to the standard of the Draft Conventions and enacted prior to 1919. This represents in reality the sum total of progress in social legislation covering the same points as those in the chief Draft Conventions realized since the inception of modern social legislation; it is the achievement of a century of activity. On the other hand, by the way of contrast we find 186 pieces of

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[9] RATIFICATIONS AS OF OCTOBER, 1921-1926.

	1921	1922	1923	1924	1925*	1926
Registered	38	51	86	141	182	212
Authorized	11	14	23	24	30	27
Recommended	65	85	127	122	116	154
Total	114	150	236	287	328	393**

* September.
** In November, 1926, the figures were 214, 27, 154, 395, respectively.

[10] Belgium, Bulgaria, Chile, Czechoslovakia, Greece, India, Rumania. Italy, Austria and Latvia conditional ratification; ratification recommended by 12 countries.

legislation with an additional 96 bills pending in the parliaments of various countries, bringing legislation up to standards of the Draft Conventions and enacted during the short period of seven years of existence of the Organization.

This progress in social legislation has been most notable in the Oriental countries and in the newer succession States of the Austro-Hungarian Empire—those States juxtaposed between Europe and Russia on the East. These new countries started fresh as respects social legislation and had to build up a social solidarity in face of the Russian revolutionary overturn.

Formal Difficulties of Ratification

However successful the Organization has been on the whole, it is not desired to over-emphasize that success and to leave out of consideration the very great difficulties which have been encountered. Feis, in his work on "The Attempt to Establish the Eight-Hour Day by International Action," [11] classifies these difficulties under three heads, namely, those which may be attributed to the rigidity of the terms of the convention itself; second, those arising from the constitutional structure and procedure of the International Labor Organization; and third, those connected with the question of international competition.

As to the first two objections it seems to me that these are not fundamental and have largely been met by the device of holding special meetings of representatives of the different countries to arrive at an understanding of the meanings of Draft Conventions where any point is obscure. Such meetings as the two of the labor ministers dealing with the Eight-Hour Convention show that the difficulty of interpretation is not so deepseated as they were able to arrive at unanimous understanding on the points in dispute. Besides, the matter of interpretation and amendment is also met by the fact that Draft Conventions are in force for ten years and may come up for revision at the end of that time. This is a sufficient lapse of time for acquiring experience under social legislation and is very necessary, in fact, because social legislation is so frequently an uncertain and hazardous undertaking the results of which are not clear until actual trial is made.

A special constitutional difficulty, however, was introduced into

[11] *Political Science Quarterly*, Vol. 39, Nos. 3 and 4 (September-December, 1924). Academy of Political Science, New York.

the functioning of the Organization by the American delegate to the constituent commission which planned the labor charter. The American delegate insisted upon the inability of the United States to ratify labor treaties on the ground that the states of the Union were the sole repositories of authority to promulgate labor laws. Hence Federal States as a group were permitted to treat draft conventions as mere recommendations or suggestions to be formally conveyed by their national governments to the constituent states of the federal Union. This privilege would obviously be enjoyed by Canada, Australia, and the United States. It clearly introduces into the system of international legislation not merely the complexities of competition between political nations, but between the constituent parts of those nations. If the United States were a member, it would raise the problem which we now face of complications in labor conditions between our own states. Thus far no method of meeting the situation has been devised in practice, although I would wish to point out that only recently the Canadian government has hit upon the scheme of bringing about periodic conferences of the provinces for the discussion of the Draft Conventions, and for making announcement as to progress in application of the principles laid down in the Draft Conventions and Recommendations. The only pressure brought to bear has been that of publicity. The Canadian provinces felt that they were not given credit for progress made. It will be recalled that the Labor Office publishes every month the chart showing the progress of ratifications, but federal States are left out of this chart, as they do not ratify. What the Canadian government has proposed is to convoke the provinces in conference with a view to working out informal understandings as to provincial legislation concerning the terms of the international Draft Conventions. In any case there are those who think that this position of federal States need not be an impediment to social progress. For there is nothing in the Constitution which would prevent a federal State from ratifying a Draft Convention, provided the country can work out a formula or device to satisfy its own constitutional requirements.

The final difficulty in securing progress in international labor legislation arises from a complex of economic and social factors and it is on this point that I wish to conclude.

Two views stand out clearly. The first looks upon the different nations as economic units more or less homogeneous and presenting a solid competitive front, as it were, to their neighbors. For one

nation to do anything to increase cost of production will thereby make it less possible for it to compete with its neighbor. If, for example, one country reduces its hours of labor throughout industry it thereby increases its cost of production, if no increase in efficiency is obtained by reducing hours. If the country rapidly increases wages without a corresponding increase of efficiency in output, it will so increase the cost of production as to make it impossible to compete with goods from other countries. Classical statements of this theory of international competition would run something like this: However desirous one state may be to improve conditions of labor, it is impossible for it to do so by reason of its fear of international competition, unless it has at the same time an assurance that other industrial countries will add a similar burden upon their productive capacity.

The other view of international competition is that this so-called economic unity of nations is a fiction, and that the failure to enact labor legislation has arisen purely from the conflict of interests which arises between the wage-earner group sought to be protected, and the group interests of capitalists and employers. Under this view of the matter competition is in reality not international in the ordinary sense of that term, but cosmopolitan; that is, a competition between group interests. The cosmopolitan point of view charges that the strictly national point has risen from the fact that the group interests of the employers are not only predominantly stronger, but are considered more important than those of the employed. This identification of the group interests with national interest has had the effect of making the protection of the wage earning group interest an obstacle to a vital national interest.

Every form of international or cosmopolitan action will raise these fundamental philosophical questions: Do national interests exist apart from the welfare of the inhabitants? Shall national interests be bought at the expense of poverty, long hours, inadequate wages, lack of education, or even physical degeneration? Shall any particular industry be allowed to exist at those costs? It is these problems which international action as now conceived and now incorporated in the International Labor Organization is constantly keeping alive and to the front.

"Social Justice" Motive in Creating International Labor Standards

By Herbert Heaton
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MR. MAGNUSSON[1] has described the International Labor Organization primarily as an instrument for reducing the international labor differential. But a study of the origin and record of the International Labor Organization suggests that another motive was at least as powerful in getting the organization erected, and much more fruitful—if motives do bear fruit—in results.

I don't think international competition loomed large in the minds of those who framed Part 13 of the Treaty of Versailles. The International Labor Organization was a reward and an insurance policy: a reward, or rather the fulfillment of promises made to keep labor loyal, unquestioning, and energetic during the war. The soldiers were to have "homes fit for heroes" to dwell in, and civilians were to have factories fit for them to work in. Hopes had been raised; a picture of a new heaven painted; and, as labor had paid its money down in advance, the picture had to be delivered. Besides, there was the fear that unless something was done labor might paint its own picture, with red paint from Moscow: *bogey, bogey, Bolshie* was a very real presence, a solid-looking piece of materialized psychoplasm to many at Versailles, and something more than a Polish *cordon sanitaire* was needed to keep communism and typhus from spreading to Western Europe.

Hence Part 13 contains some of the most remarkable statements that have ever appeared in any international document. It says, for instance, that universal peace "can be established only if it is based upon **social justice**;" it confesses that "conditions of labor exist involving such injustice, hardship, and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled;" it admits that "an

[1] See preceding article, page 148, "International Competition in Labor Conditions and the Maintenance of Labor Standards," by Leifur Magnusson.

improvement of these conditions is urgently required," and specifies directions in which that improvement is needed. Finally, in an annex of general principles it blesses the doctrine that "labor should not be regarded merely as a commodity of commerce" and endorses such things as the right of association, the payment of a living wage, the eight-hour day, and equal pay for equal work.

The problem of unfair international competition takes second place in Part 13. The paragraph in the preamble reads—"Whereas also the failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries." But I think that those who drew up the document placed this clause second in importance as well as second in order. There were certain admitted ingredients of social justice, they must be secured. As for the heavens falling—well, they had been going to fall on Robert Owen's head at New Lanark, on Britain's head when the ten-hour day came, on Germany's head when Bismarck's insurance schemes were initiated, on Australia's head when the state fixed minimum wages, on England's head when Lloyd George gave it 9d for 4d. And still the celestial girders supported their load.

This stress on the humanitarian rather than the competitive aspect was, unconsciously, good tactics. For with the best will in the world, a nation would, especially in times of depression, be loth to take a step that reduced its competitive advantage. Even labor representatives at Geneva have sometimes become burning nationalists and have opposed measures which they thought would injure their own country. For instance, Australian labor and capital joined hands at Geneva in fighting the suggested ban on white lead paint. They declared it was a subtle attack by German zinc-paint interests on the big lead mines of Broken Hill; and an Australian who, back in his own land would probably talk of the mines as "the hell-holes of capitalism along the line of lode," nevertheless refused to let the lid be put on those holes in the interest of another country—or in the interest of painters the world over.

If you examine the work of the International Labor Organization you find that its success has been greatest where social justice was concerned, and least on issues where international competition is affected. The agreements most easily reached at Geneva and least slowly accepted by governments have not been the competitive

ones; they have referred to unemployment, employment of women before and after childbirth, anthrax, conditions of employment at sea, medical examination of children and young persons employed at sea, technical agricultural education, the development of facilities for the utilization of leisure, and night baking. And bread certainly isn't a commodity in the world market. Little has been said yet about wages, and little actually accomplished about hours, except in the Orient and the new European states.

One reason for this smallness of result has undoubtedly been the chaos and depression that came soon after the eight-hour Convention was drawn up at Washington in 1919. The International Labor Organization was born in a period of boom; but its cradle and kindergarten period has been one of tumult and gloom. Such a period is not one for taking risks, for accepting plans which may burden your industry and push it deeper into the slough. The frying pan is hot enough, in all conscience, but the gas-ring or stove-top may be hotter.

But the more serious obstacle to any tackling of the competitive factors is the persistence of old-fashioned notions about the character and importance of the labor differential. Employers are, in many cases, still thinking along early Victorian lines about labor conditions and legislation. They are still regarding labor laws as grievous burdens. They still believe that those laws are a belt below which they mustn't hit, and resent the attempt to turn a body-belt (or a sock-suspender) into a halo. They are still talking as if output was strictly proportionate to the length of the working day, and as if wages and labor cost were synonymous terms. All the work of the last thirty years on industrial fatigue is forgotten—if it was ever known. The lesson that some burdens are not burdens—that good **"humanics"** may be sound economics—has not been learnt. The attitude of most British mine-owners during the recent strike bears out this picture. To them the coal issue was not one of over-production, of stagnant or shrinking demand, or of obsolete third-generation structure and methods. It was purely one of hours and wages. And Mr. Magnusson's quotation concerning the view-point of New England manufacturers shows that on this side of the Atlantic similar views are held by third-generation industrialists.

But the labor differential isn't the only one. I suspect it prob-

ably isn't the most important one in most cases. Put all British mines, or even all Western European mines, on the same wage and hour schedule; put Massachusetts and North Carolina on the same labor scales, and the results will still be markedly different from area to area. Hence a full achievement of the aims of the International Labor Organization would still leave the competitors unequally handicapped; but at the same time an attempt to remove all handicaps by putting them on the wage-earners' shoulders will bring no real relief in the long run. I wish some research institution which isn't too busy spinning the wheels of the business cycle would make a comparison of international production costs; then we should know how big were the differences from country to country, and what were the ingredients of those differences.

Mr. Magnusson's tone is one of well-tempered optimism. To have secured over 200 acceptances of draft conventions and recommendations, out of a possible total of 600, is a good seven-years' work, especially when we remember that in pre-war days it took twenty years to get two international labor agreements through. To have moved Japan and India toward factory control is a big achievement; to have started the succession states off with an advanced code of labor laws is a first-rate success.

But perhaps the most interesting feature of to-day is the growing recognition among European business leaders of the need for limiting cut-throat competition itself. We have seen it chiefly in the coal trade. There the International Miners' Federation and the leading continental coal barons have been driven to admit the need for joint action on international lines. The coal industry since the war has lived on the misfortunes of one or other of its regional units. In the words of a German coal magnate, "Though it may sound merciless, for years the hopes of the various coal industries have been centered upon the falling out for a while from international competition of one of the chief competitors owing to differences with labor—to the temporary relief of their own situation." For nearly a year there has been talk of an international coal cartel, just as there was of an iron and steel agreement. On both proposals British interests have stood out, and the coal agreement has therefore not yet been reached. But most of the big interests in Western Europe are admitting more and more frankly the folly of unfettered competition. The internationally signed manifesto

of a few weeks ago; the week-end gatherings of British and German economic leaders at a British country house; the agreement reached last March between the labor ministers of five countries on the eight-hours convention; the forming of the Steel Consortium, the blessing of the coal cartel by the British Coal Commission, and the forthcoming League of Nations economic conference—all these things suggest that the wind is blowing in the direction of an economic United States of Europe. If that comes, the pressure of competition of labor standards will be relieved; and the road for further ratifications of International Labor Organization suggestions will be open.

One final word, from one who lives in the land of your neighbor. Mr. Magnusson has referred to Canada, a land which has tried to honor the obligations of its membership of the League of Nations and of the International Labor Organization in face of considerable difficulties.

The first difficulty is that Canada is a federation. Some recommendations from Geneva come within the sphere of the Dominion, but most of them refer to matters under provincial jurisdiction. The former are being dealt with faithfully; for instance, the Canadian Shipping Act has been amended in order to embody in actual legislation four draft conventions dealing with shipping. The preamble to this Act starts off—"Whereas at Geneva a general conference of the International Labor Organization of the League of Nations adopted four draft conventions * * * and whereas it is expedient to give effect to the said draft conventions." The other recommendations are passed on to the provincial governments and some of them have been dealt with there. In addition, Canada has a full-time resident adviser at Geneva, keeping it constantly in touch with all that happens there; and yet Canada's sleep at night is not disturbed by the fear of liabilities she may be expected to shoulder as a member of the League and the International Labor Organization.

Canada's second difficulty is that she has the United States as a neighbor, and despite tariff and everything else, she is limited in the rate of her social advancement by that fact. For instance, the legislature of Ontario (our leading manufacturing province) in 1924 approved in principle the eight-hours convention; but, it said, "We recognize that till such eight-hour day

becomes of general application, its adoption in Ontario would make this province the victim of unfair competition from such countries as have not an eight-hour law in force." And in 1926 the Canadian Manufacturers' Association opposed the idea of an eight-hour law "if for no other reason than that the United States shows no sign of adopting such a principle." That Canada watches you and has often to take her step from you is a truism running through the whole of the Dominion's history. But to-day most other countries are having to do the same thing. They admit frankly your perfect right to keep out of the League and the International Organization, though they regret your absence. They marvel at your astounding material prosperity and your appetite for living musicians and long-dead painters. They try to find the secret of your success—and often find the wrong one. But in all their doings, whether it be labor legislation or discussion on disarmment, they have to ask what will be the effect of American non-participation. You may reply to the Ontario manufacturers and others further afield that the United States doesn't need industrial laws, because of its high wages, its eight-hour day, its welfare work, employees' participation in management, etc. But we outsiders have an uneasy suspicion that all these good things are labor's part of the melons you occasionally cut. We wonder if they are not really manifestations of a benevolent despotism which retains its despotism by wearing democratic clothes. We ask ourselves whether a period of depression will not sweep your good conditions away, and wipe out the word "service" from the dictionary of luncheon clubs. And we would ask, "If you accept so fully in practice the doctrines you apply in your labor relationships, what harm is there in crystallizing them in legislation?" For if your weight were thrown into the scales on the side of legally-imposed decent labor standards, not merely would the best of your manufacturers benefit by the imposition of those standards on their less humane rivals, but you would allow the rest of the world to move upward with a greater sense of security, and insofar as you are looking to export markets for your wares you would be met by goods produced under conditions more closely approximating to your own.

How the United States Can Aid the International Labor Organization Through Research

By Mary van Kleeck

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IT is difficult to give vitality to a discussion of the International Labor Organization in a meeting in the United States. We are not a part of it. We are not represented in its conferences, and its recommendations and conventions are not presented to us for action. To all that Mr. Heaton[1] has said about the desirability of having the United States join the International Labor Organization, I would say "Aye," but the gentlemen at Washington think otherwise and believe that the majority of their constituents agree with them. Whether we should or should not join is not therefore an immediate question. The place where I believe the American Association for Labor Legislation and the American Economic Association can establish a vital connection with this international work is through research. The importance of research in bringing about clearer understanding of international competition and labor standards is therefore the subject which I wish to discuss here.

Through the formulation of experience, American industry may have its influence upon the tasks of the International Labor Organization and may make a contribution to it, even if we are not part of it. To cite a personal illustration, in the Russell Sage Foundation we not infrequently have requests for information from men of other countries who have been delegates or advisers at a conference of the International Labor Organization. Recently, for example, a Japanese who was adviser to an employer delegate came to our office to seek facts about any experiments made in the United States in eight-hour shifts in the shipping industry. He himself and the delegate whom he advised were in the shipping business. As representing this important industry in Japan, he was more concerned to know the facts of experience in the United States than he was over the fact that the United States was not a member and not therefore a participator in labor legislation for the eight-hour day. Perhaps the contribution of experiment and research to the common pool of understanding of industrial relations

[1] See preceding article, page 162, "'Social Justice' Motive in Creating International Labor Standards," by Herbert Heaton.

will be the means of establishing our place in the movement represented by the International Labor Organization.

Mr. Magnusson[2] has focused attention upon the problem of international competition and its effect upon labor standards. If I understand him accurately, he regards differences in labor standards in different nations as the essence of the problem. He implies that labor legislation insures the leveling up of conditions to a prescribed standard, while competition unrestrained by labor laws levels them down to the lowest competitor. As to the whole idea of international competition he raises the interesting question as to whether a nation is an economic unit and he suggests that labor standards are perhaps determined by the conflict between the group interests of wage-earners and of capitalists in an industry without regard to international boundaries, with the nation entering only in so far as it identifies national interest with the capitalists' side of the conflict. This suggestion raised by Mr. Magnusson suggests a series of projects for research.

First, we need a clearer analysis of the way competition is actually affected by labor standards. Is the ratio invariable between wages, costs of production and price? Experience in mass production in the United States seems to show that the ratio is not invariable,—that higher wages may accompany lower unit costs and lower prices. A change in the wage scale or in hours of work does not invariably necessitate an increased price in the ultimate market. We have been warned by economists against too simplified a conception of factors in cost of production. Many subtle elements enter in. It would seem that one of the first tasks of an International Labor Organization would be to stimulate a series of studies in the different countries of the world which would help to clarify these relationships.

Second, What is the relation between the state as a political unit and the state as an economic unit which is a party in competition? The state as an economic unit seems to me to be a baffling subject for research, unless it be broken up into more manageable questions. Try, for instance, to measure the competitive economic strength of Great Britain as compared with the United States. Are there not an infinite number of variables and would it not ultimately be necessary to consider the whole subject industry by industry and to follow one branch of economic activity beyond national boundaries wherever it extends throughout the world? A modern nation is not an economic unit, though national pride in international gather-

[2] See page 148.

ings may make it appear so. An industry, however, may be regarded as an economic unit, though it may be carried on in many different nations. It is practicable to plan a study, for example, of the textile industry and of the varying factors affecting it throughout the world. It is easy to see that such a study would illuminate many of our ideas of international competition. Undoubtedly it would correct some illusions.

A nation's interest in the economic success of its own nationals is a historic fact which needs no elaboration. It has been said that capital knows no country of its own, but clearly history shows many instances to prove that a country knows its own capital and follows with solicitude its course in foreign lands. Is the resulting political action always sound economically?

The question is raised not to discuss its political aspects but to suggest the importance of basing economic action upon studies which include all the factors affecting an industry wherever it is carried on. We tend at present to base our economic ideas upon studies confined to the conditions of a given industry in one country. Not the least of the advantages offered to us all in the International Labor Organization is that it provides a place from which to carry forward research not confined to a single nation but free to envisage all the factors regardless of national boundaries. The international point of view in economic research cannot be called accurately "international"; it is quite free from any national aspects except as national action becomes a force to be studied by the social scientist.

Possibly the fact that the International Labor Organization by its very nature represents nations and assumes therefore a division of economic activities between them is a handicap in its progress in the present. Do not economic forces operate now beyond national boundaries and are not labor standards determined within an industry rather than by a nation in which part of the industry happens to lie? Undoubtedly the staff of the International Labor Organization realizes this fact. Some of its studies, notably one now in progress relating to the coal industry, indicate the desirability of studying the problem of labor standards industry by industry, going beyond national boundaries and striking deeper into the economic forces which in the last analysis determine labor standards. A clearer understanding of these forces as revealed in world-wide projects for industrial research will surely enable us to move more rapidly toward the goal of humanitarianism which was the starting point and the purpose of the International Labor Organization.

The United States and the International Labor Organization

By J. P. Chamberlain
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THE International Labor Conferences, informed and stimulated by the trained men and women in the International Labor Office, are laying down minimum standards for the labor legislation of the civilized world. The Labor Office is collecting the data and opinions on which to base these standards; committees are set up in advance of meetings of the Conference, to canvass the information in particular subjects and to bring expert opinion to bear upon the problems involved, and in the Conferences themselves, representatives of labor and of employers sit with government representatives to subject to their practical and political experience the conclusions of the preliminary committees or the data collected by the Office.

The United States should be represented in this great Council of the world. Its function is not to make law, it is no international legislature comparable to Congress or Parliament; it has not an administration backed by police and courts to enforce its decrees; its duty is to express the considered judgment of its members in project of convention or in recommendations. We once claimed a share in the spiritual and economic leadership of the world; we do not form part of this great organized effort to give form and moral force to that leadership.

Membership in the Labor Organization does not necessarily imply membership in the League of Nations. Long before she entered the League, Germany had her representatives in the Labor conferences and co-operated officially in the Labor Office. Nor would membership bind the United States to accept the conventions adopted. Even if our representatives approved them, the only obligation of the government would be "to bring the draft convention before the authorities within whose competence the matter lies, for the enactment of legislation or other action."[1]

Only with consent of two-thirds of the Senate can a draft con-

[1] Treaty of Versailles, Art. 405.

vention take effect as a treaty. Since labor legislation is, in the main, within the jurisdiction of state legislatures, there will rarely be cases in which the Senate will be ready to disturb the constitutional division of powers by concluding a treaty binding Congress to enact a labor law. Only when a particular matter imperatively requires national treatment, will this step be taken. This need will present itself, it is probable, in the class of cases, like the phosphorous match treaty, regulating a process, rather than a case like the eight-hour law. In fact, business men and workmen united in urging Congress to prohibit the use of white phosphorous in match making, rather than to leave the question to slow and uncertain action by the states.[2] The device of taxing white phosphorous matches out of existence was then used to permit Congress to deal nationally with a subject recognized to be of national scope, but it would have been constitutional for the treaty making power to have ratified the convention and when it had done so, Congress could have legislated directly to carry out its obligations.

It is quite possible that white lead may best be dealt with through the treaty power. The United States may find it important to join those governments which insist that all countries cease using this dangerous product, in order to prevent one or two manufacturing states from getting an advantage in the world market by continuing to make white lead paint. If so, a treaty is necessary, but a treaty involves a mutual obligation. Foreign states may look askance at a treaty with the United States, if this country maintains that she cannot pass the necessary acts to put it into effect, but must ask the legislatures of the sovereign states to take action. Furthermore, national action may be far less burdensome and more effective than state action, so that all parties interested—labor, employers, dealers, the public—may unite in requesting that Congress deal with the evil. A treaty will provide for both situations. It will give the needed assurance to this country that white lead will be banished from world commerce and will permit Congress to pass the laws needed to carry it out. Even though the subject is with the reserved powers of the states under the Constitution, Congress may act to carry out an international convention if it be a proper subject of negotiation with foreign governments.[3]

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[2] White Phosphorous Match Act, 37 Statutes at large, p. 81.
[3] Downs *v.* Bidwell, 182 U. S. 244, p. 294.

The treaty power is one of the powers granted by the Constitution to the United States. A treaty made in the legitimate exercise of this power is, therefore, expressly authorized by the Constitution, and any legislation necessary to carry out the duties assumed by the United States under that power is legitimate.

The treaty power is very wide.[4] "The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or of its departments, and those arising from the nature of the government itself and of that of the states. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the states, or a cession of any portion of the territory of the latter, without its consent. * * * But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country.[5]

If it is within the scope of the treaty power for United States to enter into a Labor Convention such a convention will over-ride the laws of any state to the contrary.[6] Treaties have frequently had the effect of over-riding state legislation in fields which without the treaty, Congress could not have entered.[7] Under a treaty the right to inherit land in a state of the United States has been vested in aliens who would under the state laws have been deprived of the property.[8] The question was recently before the United States Supreme Court in a very instructive case. It was desired to protect migratory game and insectivorous birds in the United States by federal action. An act to accomplish this result was declared unconstitutional in the lower courts. The United States then entered into a convention with Canada to secure the mutual protection of these birds, and Congress practically repassed its original statute but this time for the purpose of carrying out the treaty. This Migratory Bird Treaty

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[4] "The Power of the United States Under the Constitution to Enter into Labor Treaties." *Proceedings of the Academy of Political Science,* Vol. VIII, No. 3.

[5] De Geofroy *v.* Riggs, 133 U. S. 258.

[6] Constitution of the United States, Art. 6, Sec. 2.

[7] Asakura *v.* Seattle, 265 U. S. 332.

[8] Fairfax *v.* Hunter, 7 Cranch 603; Hauenstein *v.* Lynham, 100 U. S. 483; Peterson *v.* Iowa, 245 U. S. 170; Crandall's Treaties, 2nd Edition, Sec. 73; Ch. XVI, Sec. 105-110.

act was sustained by the Supreme Court.[9] In writing his opinion Justice Holmes declared that: "It is not likely to be assumed that in matters requiring international action, 'a power which must belong to and somewhere reside in every civilized government' is not to be found. He said furthermore that "here a national interest of very nearly the first magnitude is involved. It can be protected only by national action in concert with another power."

A treaty has never yet been held unconstitutional although there are many cases affecting what would otherwise be reserved rights of the states. If the administration is convinced that the treaty method with consequent federal legislation should be adopted in respect to a Labor matter of international consequence, and if the Senate agree by the two-thirds vote necessary to authorize the ratification of a treaty, the Supreme Court should be depended upon to sustain their action even in respect to subjects which without the treaty would be reserved for the states.

Labor legislation is, however, not exclusively reserved to the states. Maritime workers are within the scope of the legislative power of the United States; the states may regulate even harbor workers, only in a limited degree.[10] Therefore no constitutional doubt can arise on the power of the federal government to adopt conventions or put into effect recommendations in respect to seamen and others within the admiralty jurisdiction. Interstate and foreign commerce is also subject to the power of Congress, and so labor relations in interstate commerce may be regulated without a wrench to the constitutional machine.[11] Since the conception of what is included in the power to regulate interstate and foreign commerce tends to expand with an increasing sense of the impossibility of putting into watertight compartments, carriers which operate on the same territory in both inter- and intra-state commerce;[12] since the tendency to accept federal models is so marked in the states;[13] because of the practical advantages of applying a single rule to the

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[9] Missouri *v.* Holland, 252 U. S. 416.
[10] Washington *v.* Dawson, 264 U. S. 219; S. P. Co. *v.* Jensen, 244 U. S. 205.
[11] Mandou *v.* N. Y., N. H. & H. R. R., 223 U. S. 1.
[12] Shreveport Rate case, 234 U. S. 342; Wisconsin Rate case, 257 U. S. 563; "Evolution of Federal Regulation of Intra-state Rates," 28 *Harvard Law Review* 34.
[13] "Uniformity of Regulatory Laws Through Federal Models," by J. P. Chamberlain, *American Bar Journal*, IX-6, p. 382.

same carrier, the whole field of transportation by railroad tends to fall under the national authority directly or indirectly.

In the great majority of instances, however, the subjects dealt with by the International Labor Organization can not in practice be applied through statute except by the state legislatures. Even though the treaty power might extend so far, it is practically certain that it will not be exercised, by a two-thirds majority of the Senate, to deprive the states of their rights under the fundamental charter of our dual government.

This practical situation was envisaged by the framers of the Labor part of the Treaty.[14] The Conference may embody its decisions in conventions or in recommendations. If it adopts a recommendation the government will be obligated only to bring the recommendation before the state legislatures, if the subject falls within their spheres of action, and before Congress only if it comes within that of the federal legislature. Even though a convention is accepted, the treaty expressly provides that a federal state may treat a draft convention as a recommendation if its power to enter into conventions in labor matters is limited.[15]

Then there is no constitutional objection to the United States assuming the place reserved for it as one of the principal industrial nations of the earth and a leader in solving many of the "insoluble" problems of labor and capital. If this country does not share in the deliberations and votes of the International Labor conference, past experience makes it probable that we shall be legislated for in fact by a body in which we have no representation. This country cannot function in a closed compartment. Not only must we share in world commerce, and thus be interested in the rules of international business, but we cannot escape the influence of ideas. Nowhere is the influence of ideas more evident than in the changing labor law, and those which issue from the Labor conferences are born like Athena, fully armed and equipped. We cannot escape their dynamic effect. Is it not, therefore, a duty to our own people as well as a tribute to world peace and order, that our representatives should take their part in shaping them?

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[14] Part XIII of Treaty of Peace with Germany, Art. 387-427.
[15] Part XIII of Treaty of Peace with Germany, Art. 405.

Labor Standards and Competition Between the United States and Canada

By Bryce M. Stewart
Former Director, Employment Service of Canada

CANADA considers the United States her chief commercial competitor. United States manufacturers have achieved a success in the Canadian market much greater than that of their Canadian competitors in the United States, and yet on the whole Canada's labor legislation is appreciably in advance of that of the United States both as to the standards established and the proportion of the population affected and this despite the longer industrial history of the latter country. In some instances the four and one-half million organized workers in the United States may have established, by collective bargaining, standards in advance of those at corresponding points in Canadian laws and industrial agreements, but these gains do not offset the Canadian advantage in the almost nationwide extent of workmen's compensation, minimum wage legislation and public employment offices. To these may be added the establishment of fair wages, virtually the union rate, on all contracts of the Dominion government and of some of the provinces, an actual beginning on minimum wage legislation for male workers, a minimum age of 14 for admission to employment in the factories of provinces with 90 per cent of the population with higher minima in two provinces, and the fact that both parties in the Dominion parliament are pledged to the early establishment of a nationwide scheme of old age pensions.[1] The weaker competitor has outdone the stronger in the establishment of labor standards.

Differences in the labor movements of the two countries may afford a partial explanation. Certainly the American movement has much less faith in legislation than Canadian trade unionism. As Commons and Associates state in the *History of Labor in the United States,* "Owing to the constitutional separation of powers between the executive, the legislative and the judiciary, and especially owing to the existence of the four dozen different state governments, each a law unto itself, American labor leaders have for

[1] Since this was written the Canadian Parliament has, in March, 1927, enacted an old-age pension law.—Editor.

the most part become convinced, after long and discouraging experiences with unconstitutional and unenforceable labor laws, that only through trade unions can the wage-earner secure protection worthy of the name."

The larger influence of British traditions in Canada may have given rise to greater trade union faith in legislation and the method of legal enactment is a much easier course than in the United States. There is certainly a greater probability of retaining legislation in force as compared with the United States where the courts have declared so many labor laws unconstitutional. Parliament has deprived Canadian labor of some important legal gains and in the last quarter century the courts have restricted union action in labor disputes by the granting of injunctions. However, the use of the injunction has not become general and the Canadian courts have very little power to nullify legislation.

Canadian labor's part in the development of labor legislation must be viewed in relation to the British origin of many of the leaders. Several of these men, and a considerable proportion of the rank and file, had been members of the British labor movement before emigrating to Canada and their desire to secure in that new country on the threshold of its industrial history the laws enjoyed in the advanced industrialism of the United Kingdom has been one of the major forces in the growth of Canadian labor legislation.

But the trade unions have been opposed by the organized employers, and most competent observers agree that employers in Canada are better organized and exert a stronger political influence than in the United States. Canadian employers have generally opposed protective labor legislation, but here in the main they have been content with applying the brake. When a Dominion factory law was proposed in 1882, the manufacturers' journal stated: "It is simply preposterous under the circumstances to demand that we should at once take the field with a factory act all complete like Minerva springing fully armed from the brain of Jupiter." As in the United States and other industrial countries, their main effort has been directed to preventing any advance in legal status of trade unions.

In this they have been eminently successful. In the seventies and eighties Canada followed British precedent in trade union legislation. The British Trade Union Act of 1871 was written into the Canadian statutes and the peaceful picketing clause of the Con-

spiracy and Protection of Property Act of Great Britain (1875) was also taken over. Canada adopted a policy of protection in 1880 and this promoted organization among the manufacturers. In the next dozen years the legal status of the unions was considerably impaired, first, by a slight verbal and quietly effected change in one of the laws when the statutes were revised in 1886 and again by the omission of the peaceful picketing clause when the criminal laws were consolidated in 1892. Since the Taff Vale decision employers have resorted to the injunction in labor disputes and its use is on the increase. The unions have sought the restoration of their old privileges; they have appealed to British precedent and asked for the British Trade Disputes Act but in the matter of peaceful picketing, for example, they have been forced back to the position they held before the law a half century ago. In short, British precedent has been abandoned and there has been a steady drift towards the legal status of trade unions in the United States.

One is tempted to seek an explanation in Canada's fear of United States competition. In recent years Canadian legal decisions with regard to injunctions and picketing frequently have the same tone as those of the American courts and the dicta of United States judges are quoted. But who will say whether the fear of American competition or the natural desire of the employers to gain an advantage regardless of their competitive position has been the determining factor in this weakening of the unions before the law.

One is persuaded of the latter alternative. Certainly fear of United States competition has not deterred Canada from an advance past the United States position in protective labor legislation. Why then should it force a decline in trade union legal status? It would seem that in Canada as elsewhere employers have been determined to fight any legalization of the coercive methods of trade unions, that "kind of benefit of clergy" as someone has termed it, to the last, without regard to competition or other considerations.

This development of protective legislation coincident with a weakening of the legal position of trade unions is, of course, not a new story. The British labor movement discovered itself in such a situation after the Taff Vale decision but found a way out. It regained the lost ground and consolidated its legal position by the Trade Disputes Act of 1906 after it had elected an unprecedented number of labor candidates to Parliament. Further development

of political strength brought the Trade Union Act of 1913. American and Canadian trade unions are still seeking to attain the desired legal status by the method of rewarding friends and punishing enemies.

From this hurried glance at labor legislation in the United States and Canada, the two outstanding competitors in international trade on this continent, it would seem that the major consideration in the establishment and maintenance of labor standards is the struggle of the trade unions with the organized employers for protective regulations and a better legal status and the relative industrial and political strength of the two parties. Canada, the weaker competitor with the lower tariff, at a disadvantage by reason of geography, climate, small-scale production and shorter industrial experience, but with a labor movement much more interested in legislation than that of the United States, has the higher standards.

We must admit that the struggle between the two is conditioned by international competition, but has not the importance of the competitive factor been overemphasized? Labor standards enter into competition only when they increase unit cost of production. It is frequently argued that such legislation as workmen's compensation and unemployment insurance stimulates the employer to reduce accidents and unemployment—and so to lower costs. No doubt the producer will seek in any case to find ways of absorbing new costs and to avoid marking up prices. To the degree that producers in any line succeed in so doing their competitive position is unchanged. In so far as they fail, their orders are likely to go to those whose prices have advanced least or not at all, and from the standpoint of national trade, nothing may have been lost. Is it not conceivable that a nation may be progressive in at least a considerable range of labor standards and still be at no competitive disadvantage?

A nation cannot honestly refuse to establish a given labor standard on the ground that another has a lower unless the two are in direct competition. It may be that they do not compete in the great majority of their exported commodities and the country considering the legislation is justified only in withholding it from the industries directly affected. This suggests that the proposals of the International Labor Organization would be translated into legislation more quickly if it were possible to apply them to industry after industry rather than by seeking to enact all-inclusive laws. It is noteworthy that British Columbia in implementing the International

Labor Organization's proposals on the eight-hour day has established a board with discretionary powers in applying the law to the industries of the province. One sometimes wonders if the International Labor conferences were more on an industrial basis, if there were conferences entirely devoted to labor standards in mining, textiles and other industries, employers and workers in direct competition the world over might not be able to agree on certain minima more readily. Ratification for the industry should follow in many cases when a blanket law would not be accepted. The International Labor Organization has recognized this to the extent of calling special conferences on maritime affairs. The principle seems capable of extension.

It is obvious that the acceptance of an international standard involving an increase in unit costs does serve to spike competition where it does exist. In effect the governments adopting it give notice that they prefer to have capital and labor unemployed through competition than employed under conditions less satisfactory from a social viewpoint. For acceptance by all competing countries does not guarantee equality in competition. Professor Taussing indicated in an article in the *Quarterly Journal of Economics* (November, 1924) that despite the higher wages paid to American labor the unit cost of production for a considerable list of commodities is generally lower in the United States than in Great Britain and countries on the Continent. A nation in this position with a constantly improving industrial technique and a vast, expanding, highly protected home market could afford to be a pace-maker in the establishment of the new industrial *ius gentium*.

The accepted standards will always bear with unequal weight as between countries and the responsibility will lie with the trade unions in the countries least affected to advance beyond these minima to new standards which then become objectives for countries less advanced industrially. Participation in this development by the International Labor Organization should speed it up considerably. But the International Labor Organization has to reckon not only with the facts but the fear of competition. Governments are slow to grant new labor standards fearing that they will suffer in competition. The International Labor Organization brings the facts concerning competition and the other factors involved into the open for discussion and appraisal and builds up a new morale. Undeniably it will dispel much of the fear of competition and make for better progress.

International Labor Legislation

THE 1927 meeting of the **International Association for Social Progress** will be held at Vienna in early September.

ON May 20 France definitely ratified the Draft Convention adopted in 1919 by the Washington meeting of the International Labor Conference, and signed at Paris in January, 1921, **limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week.**

During the past six years France has delayed final ratification of the Eight Hours Convention on the theory that she could not afford to do so if other principal countries did not also ratify at the same time. French ratification was made dependent on that of England and Germany.

In March, 1926, by invitation of the British government, a conference of ministers of labor of five countries—Great Britain, France, Germany, Belgium and Italy—was held in London to consider questions of interpretation of the Eight Hours Convention. As a result of the conference an agreement was drawn up, and signed by all five ministers, accepting certain interpretations as to application of this Convention in case of its final ratification by their respective countries.

Commenting on this action, Director Albert Thomas of the International Labor Office said that during the past few years there had been manifest in the chief European countries a continuous movement in favor of ratification of this Convention and that the London agreement was a step forward to this end.

Dispatches from Paris state that the argument which won a majority of the Chamber to final ratification of the Convention was that such action would serve to strengthen France's position and standing at the Geneva Conference. It may also be said that this action by France greatly weakens the position taken in the past by government and employer groups in other great industrial powers, that one country dared not "obligate" itself to abolish the unreasonably long working day in industry unless competing countries also acted.

SHORTLY before France ratified the Eight Hours Convention, Germany on April 8 adopted a so-called "emergency" **eight-hour law,** effective May 1. The first draft of the bill presented to the Reichstag was based on the international Eight Hours Convention, but, as enacted, the measure, according to a wireless despatch to the New York *Times,* "is so punctured with ifs and buts that the eight-hour day clause has little significance." The Government

parties, however, have given out the assurance that this law is merely meant to be of a "temporary" character and that during the fall session an entirely new bill will be introduced.

COMMENTING on the action of the German government on hour legislation, the International Federation of Trade Unions says: "The German government has done the greatest disservice to itself, for the bill has not only alienated public opinion abroad, it has also called forth the liveliest opposition from the German national trade union centres of all shades of opinion. Its issue has relegated the German government to a place among those backward and yet naive governments which are still seriously of opinion that they can suppress the **eight-hour day.** * * * The general trend is unmistakably towards ratification—and yet the reactionary parties in Germany are still opposing it in deadly earnest."

WHY does great Britain delay in ratifying the **Eight Hours Convention?** The answer is indicated in the reported declaration of the conservative Lord Cavendish-Bentinck. "The Government," he said, "were acting under pressure of a reactionary body of employers.' The *Manchester Guardian,* discussing the Commons debate on ratification of the Washington Eight Hours Convention, says: "The recent conduct of the Government in such matters as the Lead Paint Convention, the proposal to regulate seamen's hours, and the Washington Convention can only be explained on the assumption that it is now hostile to social reform by international action."

BELGIUM and Luxemburg have concluded a **labor treaty** which establishes the following principles: free reciprocal migration, equality of wages for immigrants and nationals of both countries, equality of treatment in regard to working conditions, legislative protection, and unemployment benefit.

IN Belgium, a special conference was held March 6 at Brussels attended by representatives of trade unions and of benefit fund centers of the Friendly Societies to discuss problems of social insurance in all its forms—sickness, invalidity, maternity, old age and death. The conference adopted a resolution demanding universal compulsory social insurance, and deploring that, for financial reasons, the government has not yet introduced such a system, and has not even, while waiting for better times, established compulsory contributions from employers and workers, as it might have done. The conference advocated the establishment, as a transition measure, of a National Benefit Fund acting through the Friendly Societies.

THE **Tenth Session of the International Labor Conference** opened at Geneva on May 25. Three questions are on the agenda: (1) Sickness insurance; (2) Freedom of association, and (3) Minimum wage fixing machinery in trades in which organization of employers and workers is defective, and where wages are exceptionally low.

Book Reviews and Notes

Canadian Labor Laws and the Treaty. By Bryce M. Stewart. *New York, Columbia University Press, 1926. 501 pp.*—This impressive study of the development of labor legislation in Canada comes as a welcome aid to the student as well as to the interested general reader on both sides of the border. It contains a general survey of labor laws and the parts played in their development by trade unions and employers' organizations. Pointing out that when Canada became a member of the International Labor Organization, "labor legislation entered upon a new phase," Mr. Stewart gives detailed treatment of the laws that come within the scope of the labor section of the Peace Treaty, showing what results have thus far been achieved. These efforts, he says, emphasize "the slow process by which competent legislation is attained" and "show abundantly that an effective statute is not to be had 'all complete like Minerva springing fully armed from the brain of Jupiter.'" This volume is an important addition to the ever-increasing literature of labor legislation in North America.

Marriage and Careers. By Virginia MacMakin Collier. *New York, The Channel Bookshop, 1926. 121 pp.*—Analysis, prepared for the Bureau of Vocational Information, of the experience of one hundred women who have successfully combined marriage, children and a paying career outside the home.

The Rise of American Civilization. By Charles A. Beard and Mary R. Beard. *Macmillan, New York, 1927. Two volumes, 1652 pp.*—An outstanding event in the writing of American social history is the appearance of this work by Prof. Beard and his wife. Social vision and charm of expression unite to make the acquisition of knowledge in this form a continuous pleasure for readers interested in knowing the various processes by which America has thus far progressed.

The American Year Book. Edited by Albert Bushnell Hart and William M. Schuyler. *New York, Macmillan, 1927. 1178 pp.*—The new edition of this valuable "record of events and progress" is even better than that of 1926. Considerable space is devoted to social conditions and aims, including labor and labor legislation.

Vacations for Industrial Workers. By Charles M. Mills. *New York, Ronald Press, 1927. 328 pp.*—This volume, which begins a series of research studies on human relations in industry by Industrial Relations Counselors, Inc., is a comprehensive study of vacations for industrial workers throughout the

world. The author points out that vacations with pay for industrial workers are a more recent—but increasingly important—development than the shorter working day and week. In the United States already "there are certainly more than 1,000,000 workers who are employed in plants giving paid vacations," while in Europe "annual vacations, adopted mainly through collective agreements and legislation, now directly or indirectly affect a considerable proportion of the population"—six nations with a combined population of 184,000,000 having adopted vacation laws which apply to all workers. "The most important influence on the movement in the United States," it is found, "has been the growing belief in the economic, as well as the social value of annual consecutive days of rest." This well written and well organized book is a valuable contribution to the subject.

The Law of Organized Labor and Industrial Conflicts. By Edwin Stacey Oakes. *Rochester, N. Y., Lawyers Co-operative Publishing Co., 1927. 1333 pp.*—A valuable compendium of the law on this subject including Labor Unions, Employers' Associations and Combinations, Statutes or Contracts Relating to Employment of Union Labor, and Union Labels. The author has dealt with many incidental and pertinent phases of the problem, as for example, union officers, membership and charters, strike insurance, statutes restricting the issuance of injunctions, criminal syndicalism and arbitration and conciliation. Over 1,800 cases are cited covering Canadian and English decisions, in addition to state and federal courts in the United States. The volume is of immeasurable assistance as a reference and text book.

Anthony Comstock, Roundsman of the Lord. By Heywood Broun and Margaret Leech. *New York, Boni, 1927. 285 pp.*—Through the lines of this entertaining book the reader catches glimpses of the surprised admiration of the authors who first approached this active director of the Committee for the Suppression of Vice with some apparent antagonism. Social reformers should read this book for reflections upon the psychology of their kind; others by reading it may acquire a better understanding of social reformers. In the chapter "The Conquest of Congress," describing Comstock's experience at Washington where he was finally successful, the authors remark: "Not until the delays in passing his bill had tried him almost beyond endurance did he burst into invective, and then it is surprisingly mild."

The Idea of Social Justice. By Charles W. Pipkin. *New York, Macmillan, 1927. 595 pp.*—A study of social legislation and administration and the labor movement in England and France between 1900 and 1926, with an estimate of the forces at work "which are helping to create a better social order for the individual." Emphasis has been properly placed upon Administration since the means of administration are frequently "as important in estimating the advance of good will as the statute itself." The book admirably sets forth the modern method of giving expression to the idea of social justice through labor legislation, and at the same time presents with satisfactory conciseness and completeness the body of social legislation adopted in the first quarter of the twentieth century by two of the great countries of the world.